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LEAGUE OF NATIONS

Geneva,
August 24th, 1923.

Permanent Mandates Commission

MINUTES

OF THE

THIRD SESSION

held at Geneva

from July 20th to August 10th, 1923.

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PERMANENT MANDATES COMMISSION

MINUTES OF THE THIRD SESSION
HELD AT GENEVA FROM JULY 20th TO AUGUST 10th, 1923

The following members of the Commission were present at the third session:

The Marquis THEODOLI (Chairman).

M. van REES (Vice-Chairman)

M. Freire d'ANDRADE.

M. BEAU.

Mme. BUGGE-WICKSELL.

Sir Frederick LUGARD.

M. Pierre ORTS.

M. YANAGHITA.

Also present: Mr. GRIMSHAW, representative of the International Labour Organisation.

The following accredited representatives of various mandatory Powers attended certain meetings of the Commission:

The Hon. Sir James ALLEN, K.C.B., High Commissioner in London for the Government of New Zealand;

The Right Hon. Sir Joseph COOK, G.C.M.G., High Commissioner in London for the Commonwealth Government of Australia;

The Hon. W. ORMSBY-GORE, M.P., British Under-Secretary of State for the Colonies;

M. DUCHÊNE, Counsellor of State, Director of Political Affairs at the French Colonial Office.

M. Pierre FORTHOMME, Hon. Minister Plenipotentiary, Member of the Belgian Chamber of Representatives.

M. M. MATSUDA, Minister Plenipotentiary, Head of the Japanese League of Nations Office.

The Hon. Sir Edgar WALTON, K.C.M.G., High Commissioner in London for the Government of the Union of South Africa.

FIRST MEETING (Public)

held at Geneva on Friday, July 20th, 1923, at 11 *a.m.*

Present: All the members of the Commission except Count de Ballobar.

Marquis THEODOLI in the Chair.

112. OPENING SPEECH BY THE PRESIDENT.

The Marquis THEODOLI, opening the session, spoke as follows:

In accordance with the custom which was established last year, I think that, in opening the third session of the Permanent Mandates Commission, I ought briefly to go over the ground which has been covered by the League of Nations in connection with the application of Article 22 of the Covenant, and to explain in a few words the agenda of the present session which has been communicated to you at the same time as the notice of the meeting.

Before referring to the decisions taken by the Council and the Assembly on the subject of mandates, I should like to express my sincere regret at the resignation of Mr. Ormsby-Gore, who has been appointed Under-Secretary of State for the Colonies by his Government. I am quite sure that I am correctly interpreting the feeling of all my colleagues when I say that, from the beginning of our work, Mr. Ormsby-Gore was one of the most valuable contributors to its success. His keen intelligence, his genuine and enlightened interest in our work, and, even more perhaps, the high impartiality and complete independence of his judgment, made him a most valuable collaborator and driving force; and his warm and cordial courtesy rendered him the most agreeable of fellow-workers and the most charming of colleagues. Our regret at his resignation, however, is mitigated by two important facts. In the first place, we have learnt with extreme satisfaction that we shall have the pleasure of seeing him again at Geneva during this session, as he will be present as representative of his Government. Secondly, we may congratulate ourselves on the presence among us of Sir Frederick Lugard, former Governor of Nigeria and the author of many publications well known among persons dealing with colonial questions, particularly that great work — which, though recent, is already a classic — on the "Dual Mandate", which seemed by its very title to suggest that its author should some day occupy the position to which I have much pleasure, on behalf of the Commission, in welcoming him most cordially and respectfully to-day.

I. 1. As you will remember, we concluded our work last year by drawing up a final report, to which we attached our observations on the administration of territories under C mandates. This report was submitted to the Council of the League of Nations by His Excellency the Marquis Imperiali on September 4th, 1922. Accepting the conclusions of its Rapporteur, the Council adopted, on the same date, the following resolution:

> "The Council of the League of Nations, having examined the report of the Permanent Mandates Commission on the work accomplished during its second session, and the documents annexed thereto:
>
> "(1) Desires to thank the Permanent Mandates Commission for the great zeal and admirable impartiality which it has displayed;
>
> "(2) Instructs the President of the Council to transmit to the mandatory Powers, on its behalf, the recommendations expressed in the report and in the annexed documents, with the request that they will be good enough to carry out these recommendations;
>
> "(3) Instructs the President of the Council to transmit, for the information of the Belgian and British Governments, the observations of the Commission with reference to the situation on the frontier of Ruanda, under Belgian mandate, and of British Tanganyika."

My colleagues will no doubt share my satisfaction at the appreciation of our work expressed by the Council in the first of these resolutions. We were also very glad to learn that the Council had asked the mandatory Powers to carry out the recommendations which we had the honour to draw up last year. I think I may safely say that the Commission will be equally glad to learn

of the very satisfactory effect which has been given to the recommendations mentioned in the third resolution of the Council to which I have referred.

Our last year's report and the annexed documents were also communicated to the Assembly, which was meeting at Geneva on the day on which the Council adopted the above resolution. The entire mandates scheme and, in particular, the work of our Commission were the subject of several important discussions during the last session of the Assembly.

I cannot analyse these discussions here, but before quoting the terms of the resolution which was adopted by the Assembly on September 20th, 1922, I should like to make certain observations which are suggested by the discussion which took place on this subject.

In the first place, I was struck by the fact that, of the ten speakers who made detailed statements regarding mandates, six were representatives of mandatory Powers. Though we must, of course, be gratified by the interest displayed in our work by the Governments most closely concerned, it seems to me highly desirable that the work should also be carefully studied by the delegates of all the other States represented at the Assembly. Nothing is further from my intention than to place the mandatory Powers in opposition to the rest of the League of Nations, in whose name they exercise their trusteeship over the mandated territories. On the contrary, as in the case of any mandate in civil law, the relations between the mandator and the mandatory can only take the form of cordial and confident collaboration. Nevertheless, if only to demonstrate to the world the existence of such collaboration, I regard it as highly desirable that those in whose name mandates are exercised should follow all the details of their execution with as much care and vigilance as the Mandatories themselves. Accordingly, if I might express a desire, it is that this year at the Assembly other members should share in the discussions besides Mme. Bugge-Wicksell, Dr. Nansen, M. Bellegarde and Sir P. S. Sivaswamy Aiyer, who made extremely useful suggestions and admirable speeches last year on behalf of the League as a whole.

I also observed, especially in the statement of one of the New Zealand representatives, a certain apprehension, and even displeasure, in connection with the work of the Permanent Mandates Commission. Sir Francis Bell objected to the fact that the Commission's report was addressed to the public and not to the Council of the League. On this point I think there is a misunderstanding, which should be removed but from which we may draw some guidance for the future. There is, indeed, no doubt — and on this point I think we shall all agree with the New Zealand representative — that, being, under the terms of the Covenant, an advisory body to the Council, we have no other duty than to submit to the Council such observations as may be suggested to us by the reports of the mandatory Powers. On the other hand, however, it would certainly be most regrettable that our observations, which are the fruit of laborious enquiries carried out in a spirit of goodwill and the highest impartiality, should not be made known to public opinion and, in particular, to its great organ, the Assembly of the League of Nations. Sir Francis Bell's criticism is based on the procedure which was followed last year. Our Commission met here shortly before the Assembly, and its reports were communicated simultaneously to the States Members of the League and to the Council. It would be desirable for us to be able to meet soon enough to give the Council of the League an opportunity of considering our observations before communicating them to the Assembly. Satisfaction would thus be given both to the legitimate wishes of the New Zealand representative and to the general desire that the Assembly should be in possession of our reports and observations in good time. My colleagues will perhaps agree with me in thinking that certain alterations might be made on this point in future.

At the opening of the third Assembly, Sir Edgar Walton, representing South Africa, placed on the table of the Assembly a report by the Administrator of South-West Africa regarding the Bondelzwarts affair, which we shall have an opportunity of considering during the present session.

After the general discussion, the mandates question was referred to a committee and a sub-committee under the chairmanship of Dr. Fridtjof Nansen, one of the most convinced supporters of our institution. As a result of the work carried out by these committees — which should be considered as most valuable collaborators with our own Commission — the Assembly adopted, on September 20th, 1922, the following resolution:

> "I. The Assembly wishes to express its keen satisfaction that the terms of the mandates which had not been promulgated in 1921 have now been defined; that reports on the administration of mandated territories have been presented to the Permanent Mandates Commission and examined in the presence of duly accredited representatives of the mandatory Powers; and that the mandates system has thereby been brought fully into force.
>
> "The Assembly wishes, in particular, to express its deep gratitude to the Permanent Mandates Commission for the great care and impartiality which it has devoted to the accomplishment of its important and delicate task.
>
> "II. The Assembly,
>
> "Highly appreciating the action taken by the Government of South Africa in communicating, in its capacity of mandatory Power for South-West Africa, the report of the Bondelzwarts Rebellion, 1922;
>
> "Moved by feelings of great anxiety for the welfare and the relief of the survivors:
>
> "Resolves to express:
>
> "(*a*) Its profound satisfaction with the official statement made by Sir Edgar Walton, delegate for South Africa, that a full and impartial enquiry will be made into all the facts of the Bondelzwarts Rebellion and its repression;

"(*b*) The confident hope that the Permanent Mandates Commission, at its next session, will consider this question and be able to report that satisfactory conditions have been established; and that, in the meanwhile, the mandatory Power will make every effort to relieve the sufferings of the victims, particularly the women and children, and that it will ensure protection and restitution of the remaining live-stock, and, in general, the restoration of the economic life in the Bondelzwarts district.

"III. The Assembly, having considered the matter of the right of petition alluded to in the report of the Permanent Mandates Commission (A. 39. 1922. VI), expresses the hope that this right may be defined in such a manner as to ensure that:

"(*a*) All petitions emanating from inhabitants of mandated areas will be sent to the Permanent Mandates Commission through the intermediary of the local administration and of the mandatory Power;

"(*b*) No petition concerning the welfare of the inhabitants of mandated areas emanating from other sources will be considered by the Permanent Mandates Commission before the mandatory Power has had full opportunity of expressing its views."

2. The very important question of the right of petition referred to by the Assembly in the last part of its resolution had already been considered by the Council on September 2nd, 1922. The Council, adopting the proposals of its Rapporteur, His Excellency M. Quiñones de León, decided to refer to our Commission the scheme submitted by the British Government on this matter, and at the same time it informed us of the procedure it had adopted in connection with petitions from minorities and from the inhabitants of the Saar Basin. The Council also requested us to communicate to it our opinion before the end of the current year.

As I was desirous of economising both the time of my colleagues and the resources of the League of Nations, I ventured to consult the members of the Commission in writing. I therefore submitted to them a scheme containing certain slight amendments to the British proposals which were inspired, in particular, by the recommendation of the Assembly and the procedure followed as regards minorities and the Saar.

After a somewhat protracted correspondence, I was fortunate enough to obtain from my colleagues their general approval of the proposals I had submitted to them. The Council of the League, at its session at the beginning of 1923, adopted our recommendations with certain slight modifications, introduced as a result of a report submitted by His Excellency M. Salandra, and of certain comments by Lord Balfour.

Although this experiment of consulting the Commission in writing has proved satisfactory in this case, I do not think it would be wise to repeat it, for it is important that the recommendations of the Permanent Mandates Commission should be not so much the result of the adherence of its members to proposals submitted by one of them as of a verbal discussion in the course of which all opinions may be freely expressed and contrasted. I hope that my colleagues will not disapprove of the procedure which I thought it wise to adopt in this case, and I trust that we shall not need to have recourse to this method in the future, save in very exceptional circumstances.

3. At the same meeting, on September 2nd, the Council of the League of Nations considered our recommendations concerning the national status of the inhabitants of the mandated territories, and decided, on the proposal of the Spanish representative, to communicate these recommendations to the States Members of the League before any final decision was taken in the matter. The question again came before the Council on April 20th, 1923. As the Council was of opinion that the question was of very special interest to the mandatory Powers, it decided to invite each of those mandatory Powers which were not permanently represented on the Council to send special representatives. The President of the Council also requested me to be present at this meeting in order to explain and defend the Commission's proposals.

My colleagues will remember that we considered the question of national status to be twofold. On the one hand, we were required to define the position of the native inhabitants of B and C mandated territories, and, on the other, to find a solution which could be applied in the case of white colonists of German nationality, a large number of whom had continued to reside in South-West Africa. Regarding the natives, the Council adopted the conclusions of the Committee with certain slight modifications. As regards the German inhabitants of South-West Africa, the majority of the Members of the Council, on the very urgent recommendation of the South African representative, appeared ready to approve the method of collective but voluntary naturalisation. This solution was founded not on the principles of the mandate but on the text of Article 122 of the Treaty of Versailles. Under the terms of this article, the mandatory Powers may make such provisions as they think fit "with reference to the repatriation of German nationals..... and to the conditions upon which German subjects of European origin shall or shall not be allowed" to reside in the former German colonies. Although this decision of the Council was not precisely that which we had proposed as a result of our discussions last year, it could not possibly be considered as an infraction of the principles of Article 22 of the Covenant, because it is expressly founded on the definite provisions of another article of the Treaty of Versailles.

4. My colleagues will remember that during its last session the Commission had expressed a hope that the mandatory Powers would be invited to supply supplementary information concerning public health in the mandated territories. The Commission, moreover, decided to request the Health Committee of the League of Nations to draw up a draft questionnaire on this subject.

The Health Committee was good enough to carry out this suggestion, and a supplementary questionnaire was communicated to the mandatory Powers on September 30th, 1922.

5. In this retrospective review of the activities of the League of Nations with regard to mandates, I can do no more than recall to your notice the discussions of the Council regarding the setting up of a Commission on the Holy Places in Palestine, as well as the British statements regarding Transjordania and Iraq. In view of the fact that the A mandates have not yet legally come into force, I am of opinion that they do not fall within the scope of our duties and, consequently, of this short review.

II. I must follow up this brief survey with a short account of the considerations suggested to me by the agenda which I have asked the Mandates Section to submit to you. It occurred to me that, after dealing with the constitution of the bureau specified in our rules of procedure, and after hearing the account of the year's work by the Director of the Mandates Section, you would desire to proceed without delay to the consideration of the annual reports, which forms the most important part of our work.

In this connection, I encountered a serious difficulty at the outset. Our rules of procedure lay down that the consideration of reports shall be made in the presence of the accredited representatives of the mandatory Power which has prepared the report. They further lay down that, after studying each report, the Commission shall hold a plenary meeting, all the accredited representatives being present. The representatives of the mandatory Powers, however, who all occupy important posts absorbing the greater part of their time, have specially informed us that they are desirous of making their stay at Geneva as short as possible. If we observe the letter of the provisions in our rules, which I have just mentioned, and at the same time comply with the very natural wish of the representatives of the mandatory Powers, we shall necessarily be obliged to consider the reports and to draft our observations in a hasty and precipitate manner which would be incompatible with the importance and intricacy of our work.

I accordingly propose that the first part of our session should be devoted to the preliminary consideration of the reports in private session. In the course of this preliminary work, we shall be able to note the points which it appears to us desirable to deal with in our observations or regarding which we might require further information. After concluding this first portion of our work, we could then, in the presence and with the collaboration of the accredited representatives, review each report and submit to the accredited representatives the comments suggested by our initial consideration. In this manner, we shall succeed, I believe, in reconciling our duty with the convenience of the representatives of the mandatory Powers without in any way infringing the spirit of our rules and of our constitutional charter. During our preliminary examination, we shall be able to note the very remarkable work done by our colleagues with such enthusiasm and competence. I suppose that, in conformity with the spirit of the decision which we took last year, the authors of the monographs which have been distributed to you, as also the other members of the Commission, will carry out the duties of rapporteur, each one dealing with the questions to which he has devoted particular attention.

In addition to the annual reports, we shall also be called upon to consider the report by the Commission of Enquiry into the Bondelzwarts affair. We are bound to do so in view of the fact that the report by the Union of South Africa has been deposited with the bureau of the Assembly and in view also of the resolution of the Assembly and the interest aroused in public opinion by this unfortunate affair. The great importance attaching to this subject is, moreover, emphasised by the decision of the South African Government, which has sent a delegate to Geneva to examine the question with us, namely, Major Herbst, Secretary to the Department for Native Affairs.

You will also note that I have placed on the agenda a letter from M. Alcindor regarding the establishment in the French Cameroons of a branch of the League entitled "African Progress Union". The rules adopted by the Council with regard to the rights of petition will accordingly be applied for the first time during the present session.

Finally, I have made arrangements for the plenary meeting which, under the terms of paragraph 4 of Rule 8 of our Rules of Procedure, must be held in public in the presence of all the accredited representatives of the mandatory Powers. We shall have to define the subject of the discussions to be dealt with at the plenary meeting.

With the close of this statement, I arrive at the close of my duties as Chairman of the Permanent Mandates Commission, to which I was elected, thanks to the confidence which you were good enough to show me in 1921 and to renew in 1922. I desire to express again my deep gratitude to you my colleagues, to the Council of the League of Nations, to the representatives of the mandatory Powers — in brief, to all those with whom I have collaborated with a view to the good and loyal management of the great moral interests the protection of which has been entrusted to us under the auspices of the League of Nations.

Finally, I should like explicitly to restate a sentiment, which I have already expressed on many occasions, with reference to the mandatory Powers. I am sure that, like me, you are convinced that, if, in the difficult task with which the Covenant entrusts us of examining the annual reports regarding the administration of mandated territories, we must necessarily give proof of discernment and impartiality, nothing is more alien to our spirit than prejudiced criticisms. No-one is more desirous than ourselves of facilitating the task of the mandatory Powers by our advice, which is designed not to expose to the hostile criticism of public opinion any discrepancies which our examination might reveal, but, on the other hand, to do everything in our power to effect a steady improvement in the mandatory system, and to contribute in this way to the best of our ability to the consolidation of the structure of the League of Nations, which should be based on the deep-laid and solid foundations of public confidence and public opinion.

113. Communication from the Spanish Representative.

The Spanish representative (Count de Ballobar) informed the Commission by telegram that he was prevented by reasons of health from being present at the beginning of the session.

The Commission, on the proposal of the Marquis Theodoli, decided to send a telegram to Count de Ballobar, wishing him a speedy recovery and expressing the hope that it would be able to welcome him to Geneva within the next few days.

114. Communication from General Smuts.

The Marquis Theodoli read a letter which had been addressed to him as Chairman of the Permanent Mandates Commission by General Smuts (Annex 1).

115. Election of Chairman and Vice-Chairman.

In accordance with Rule 4 of the Rules of Procedure of the Commission, the Marquis Theodoli was elected Chairman of the Commission, and M. van Rees was elected Vice-Chairman.

116. Statement by the Director of the Mandates Section of the Secretariat.

M. Rappard made the following statement to the Commission:

The report which the agenda requires the Director of the Mandates Section to submit to you may, I think, be extremely brief. As our own activities are essentially a part of those of the Commission, of the Council and of the Assembly, the very complete report submitted to you by the Marquis Theodoli renders it unnecessary for me to make any lengthy statement. As I ventured to point out to you last year on a similar occasion, our duties are essentially two-fold. On the one hand, we are the Secretariat of your Commission, and it is our duty to prepare for your annual sessions and to assist you in all matters affecting the material and intellectual organisation of your work. On the other hand, as an integral part of the Secretariat of the League of Nations, we have to perform the same duties for the Council and the Assembly in all matters affecting mandates.

This double duty has become, in the course of the present year, very much more exacting than in the past. The system of mandates only came fully into force as from the middle of 1922. Consequently, in fulfilment of a wish you had expressed, the Council has authorised the Secretary-General to appoint a second Member of Section. During the last few weeks, therefore, M. F. T. B. Friis, who possesses a degree in political science and is a Danish subject, has been collaborating with M. Catastini and myself and the secretaries of the Section.

The system of monthly documentation which was adopted for the first time last year, in accordance with your instructions, has been carried on throughout the year. From August 1922 up to the present time you have received nine monthly collections of official documents, decrees, ordinances, extracts from Parliamentary debates and publications of every kind relating to mandates. We have been guided in our choice of these documents by a desire to be impartial and to assist the Commission in its work of obtaining information and in its supervisory duties. It is for you to judge whether our selection has been judicious, both as regards quality and quantity. My collaborators and myself will be very grateful for any observations you may wish to make in this connection, for, naturally, our only aim is to be of service to you and to supply your needs in the matter of documentation, whatever they may be.

Without recalling to your notice the various questions concerning mandates which have come before the Commission, the Council and the Assembly, and, in consequence, our Section, during the course of the year, I would be glad if you would allow me to draw your attention to one difficulty which we have encountered this year for the first time. We are only the servants of these various organs of the League, and we have no other ambition than to be their devoted, loyal and, if possible, intelligent servants. When these various bodies are unanimous in the expression of their opinions and recommendations, our duty is clear and our task easy. But when divergences of opinion, however slight they may be, make their appearance between these various bodies, we find ourselves in the well-known but unenviable position of the person who has to serve several masters at the same time. I do not wish to lay too much stress on this difficulty. I desire merely to refer to it in order to draw attention to one rather delicate aspect of our work. It would not be possible for the Mandates Section in any way to represent the Commission in its relations with the other organs of the League. For this reason it has been all the more grateful to the Marquis Theodoli for having kindly consented to be present at the April session of the Council.

There is another difficulty of a purely administrative character, due to the date at present chosen for the annual session of the Commission, which leaves too short a space of time between this session and the opening of the Assembly. The Chairman has just drawn your attention to this point with reference to a certain discussion which took place last year. May I revert to the

subject for one moment in order to make perfectly clear to you what is the nature of the difficulty and what steps can be taken to remedy it ? I think that everybody will agree that it is of the highest importance that the Assembly, which is the sole meeting of all the Members of the League, in whose name the mandated territories are administered, should have sufficient time to consider the results of your deliberations. Moreover, the Covenant clearly lays down the status of the Permanent Mandates Commission by making it an advisory organ of the Council. It is therefore important that the observations which it may be called upon to make should be submitted to the Council before being communicated to the Assembly. At its last session, moreover, the Council again expressed a desire, which it had already formulated on several previous occasions, namely, that it is essential for it to receive the documents which are to form the basis of its discussions at least a fortnight before the opening of each session. If, then, the Assembly, in accordance with its Rules of Procedure, meets regularly at the beginning of September, and if the Council must previously examine the documents submitted by your Commission, it is clear that the time at present allowed is too short.

The ideal procedure would certainly be for the Council to receive the report of the Mandates Commission a fortnight before its last session but one before the Assembly. The report might thus be transmitted to all the States Members of the League in time to give them an opportunity of considering it at leisure before their delegates leave for Geneva. Unfortunately, this ideal seems unattainable under present circumstances. If the Council is to sit at the beginning of July, as was the case this year, it will have to receive the documents from the Commission about June 15th. This would make it necessary to conclude the session of the Commission before that date, and therefore to open it about the end of May at latest. In that case, the reports of the mandatory Powers would have to reach the members of the Commission about the middle of April. As in most of the mandated territories, the fiscal and administrative year coincides with the calendar year, and, as several of these territories are at the other side of the globe, it would seem extremely doubtful whether this programme could be carried out. The question will have to be considered by the Commission in consultation with the accredited representatives of the Governments, and this might perhaps be done during the present session. The difficulty is clearly demonstrated by the fact that this year, although the Commission is not meeting until July 20th, and despite the efforts of the Governments of the mandatory Powers to carry out the Commission's recommendation of last year, several of the annual reports were received after the date fixed, and the last of them was not ready for distribution at the opening of this session.

I will now mention, as I did last year, the reports which have been received in the order of their arrival, the administrative period to which they relate, and the date on which they reached the Secretariat.

South-West Africa	1921	October 5th, 1922.
Samoa	April 1st, 1921, to March 31st, 1922	October 31st, 1922.
Palestine	July 1920 to December 1921	January 29th, 1923.
French Togoland	1922	June 2nd, 1923.
French Cameroons	1922	June 12th, 1923.
South-West Africa	1922	June 14th, 1923.
New Guinea	July 1st, 1921, to June 30th, 1922	July 2nd, 1923.
Ruanda and Urundi	1922	July 2nd, 1923.
Togoland	1922	July 9th, 1923.
Tanganyika	1922	July 10th, 1923.
Territories under Japanese mandate	1922	July 12th, 1923.
Cameroons	1922	July 20th, 1923.

The reports on Samoa, French Togoland and Cameroons, New Guinea, Ruanda and Urundi, and the territories under Japanese mandate were forwarded by the mandatory Powers direct to the members of the Commission, in accordance with Rule 5 of the Rules of Procedure of the Commission. Unfortunately, however, some of the mandatory Powers did not observe the provisions of that rule as regards the number of copies to be transmitted to the Secretariat and the date on which reports should be received.

Criticism would be an impertinence on my part, of which I wish to avoid any suggestion; but it is my duty to the Commission to give these facts as an explanation of certain delays for which we can in no way be held responsible. My remarks are not the outcome of any bureaucratic pedantry, but of my anxiety on behalf of the work of the Commission, the members of which ought to be certain of receiving the reports some weeks before the opening of the session. In view of their value and importance, the documents to be considered should be made the object of careful study, and this is necessarily a work requiring time. These observations, of course, apply not only to the annual reports themselves but also to all the administrative documents by which they must be accompanied.

The documents which have been circulated to members of the Commission with a view to discussion during the present session include the remarkable monographs by M. van Rees on the system of land tenure, by Madame Bugge-Wicksell on education, and by Sir Frederick Lugard on the liquor traffic. You will also shortly receive a study by Mr. Grimshaw, of the International Labour Office, on slavery and labour, a statement of the administrative measures taken by the mandatory Powers in connection with the liquor traffic, and a statistical return on the trade in spirits, which has been drawn up by our Section in accordance with the instructions given by the Commission last year.

During the last few weeks, as the Chairman has already observed, the Secretariat has received urgent requests from the representatives of several mandatory Powers for information as to the

exact date on which the Commission will require their presence at Geneva. In reply to these repeated requests, we have mentioned — subject, of course, to the approval of the Commission — August 2nd as the date for Sir Joseph Cook, August 3rd for Sir James Allen, and the end of July or beginning of August for Sir Edgar Walton. Mr. Ormsby-Gore has also informed us that he will arrive at Geneva on July 30th and will stay for a week. I should like, with all due deference, to ask the Commission to take a definite decision on this point as soon as possible so that we can notify these gentlemen by telegram.

In concluding my report, I must apologise for the dryness of the administrative details; and I would like, both on behalf of my colleagues and of myself, to express once again our sincere and heartfelt thanks to the members of the Commission, and in particular to the Chairman, for the friendly consideration they have shown us throughout the past year. I would also tender our grateful thanks to the representatives of the mandatory Powers, with whom our duties bring us into contact. I think I may add that the cordial treatment which we have always received at the hands of the Commission and the mandatory Powers has not only rendered our work easier and more pleasant but has also contributed to the attainment of fruitful results, both for the institution of mandates and for the League of Nations.

M. Rappard, in conclusion, thanked the French Government for the care which it had taken to comply with the provisions of the Rules of Procedure, in which the mandatory Powers were asked to send in their annual reports at the end of June at latest, addressing one copy directly to each member of the Commission and twenty copies to the Secretariat. He expressed the hope that this procedure would be followed by all the mandatory Powers in the general interests both of the mandates system and the League of Nations.

117. Programme of Work: Examination of the Reports in the Presence of the Representatives of the Mandatory Powers.

The Commission decided to hear M. Duchêne on Saturday, July 21st; Mr. Ormsby-Gore on Monday, July 30th; Sir Edgar Walton and Major Herbst on Wednesday, August 1st; Sir Joseph Cook on Thursday, August 2nd; and Sir James Allen on Friday, August 3rd. It was understood that the fixing of these dates did not impose any formal obligation on the Commission, and that the amount of work to be done might oblige the Commission to make other arrangements.

118. Minutes of the Meetings.

M. Rappard reminded the Commission that the Council had urgently asked to receive all documents fifteen days before the beginning of its sessions. As the Council was meeting on August 31st, the minutes of the Commission would have to be printed by August 15th. They would therefore be distributed to the members of the Commission in their provisional form twenty-four hours after each meeting, to be revised, corrected, and returned by the members of the Commission to the Secretariat within the twenty-four hours following. They could thus be sent to the printer within three days of each meeting.

A decision was taken to this effect.

SECOND MEETING (Private)

held at Geneva on Friday, July 20th, 1923, at 3.30 p.m.

Present: All the members of the Commission except Count de Ballobar.

119. Programme of Work.

The Chairman said that the Commission had before it special reports, which were extremely interesting, furnished by Mme. Bugge-Wicksell, M. van Rees, Sir Frederick Lugard, and Mr. Grimshaw. Did the Commission wish to examine these reports one after the other or to study them as the various subjects with which they dealt arose ?

M. Orts said that, if the general questions dealt with in these reports were studied first, it would be easier for the Commission to deduce the principles by the light of which it might examine the annual reports.

M. van Rees, referring to the minutes of the second session, page 62, reminded the Commission that last year it had adopted the system of special rapporteurs who would present their observations on the different articles of the questionnaire. Would it not be well, following the order of the questionnaire, to examine these observations one after the other ? He personally would first have a number of observations to make on general questions of an administrative character

The Chairman invited him to read these observations to the Commission.

120. Administrative Organisation of Mandated Territories.

M. van Rees read the following statement:

> "A clear and complete statement on the administrative organisation of native justice and the participation of the natives in public work and in the conduct of general affairs is only to be found in the reports on French Togoland and the French Cameroons. There are, however, other reports, notably those relating to New Guinea, Samoa, the Island of Nauru, and the territories under Japanese mandate, the text of which, or the text of the administrative and legislative provisions forwarded to the Commission, enables the Commission to form an idea more or less complete of the administrative organisation and of the regime of native justice. The information on these important matters given in the reports on British Togoland and the Cameroons, Tanganyika, and South-West Africa seems to me scarcely satisfactory. In my opinion, it would be advisable to refer again to the recommendation contained in paragraph 1 (*e*), page 61 of the Minutes of the second session-a recommendation, moreover, which was omitted from the report of the Commission which was presented to the Council."

M. Beau was of the opinion that the discussion on this subject might take place in the presence of the accredited representatives of the mandatory Powers, who would be able to give useful information to the Commission. There might be territories under mandate — for example, the Island of Nauru — where the question of the representation of the natives did not arise.

The Chairman observed that it would be more convenient to note separately in each annual report the points on which special questions arose rather than to refer on each point to the different reports.

M. Rappard suggested that the members of the Commission should be furnished each day with an extract from the Minutes, bringing out the points to which the attention of the accredited representatives should be drawn or the recommendations which should be submitted to them.

A decision to this effect was taken.

M. van REES continued his statement:

"Two other recommendations which occur on the same page of the Minutes have not been sufficiently followed. A small map, not very detailed, is provided only for French Togoland and the Cameroons, for New Guinea, and for Nauru. Moreover, the text of the decrees and other regulations mentioned, in so far as they have not been previously communicated, are still lacking for the majority of the territories. Here, again, the annexes to the reports on the territories under French mandate, on New Guinea, and on Nauru are the most complete. It would seem well to refer again to these two recommendations in the forthcoming report of the Commission.

"Five reports, notably those relating to the territory under Belgian mandate, to New Guinea, to Samoa, to Nauru, and to the territory under Japanese mandate, give a clear categorical reply to the questions put in the questionnaire, either in the report itself or collected into a final chapter. If the other mandatory Powers would agree to adopt the same practice, the work of the Commission would be considerably facilitated and lightened."

M. van Rees concluded this first part of his statement by proposing a complete revision of the questionnaire. New questions had last year been added to the chapter on public health. Sir Frederick Lugard had proposed to add certain questions regarding liquor. The chapter on administrative organisation and land tenure might also be developed, and other questions might appear to require precision in the course of the examination of the annual reports.

Sir F. LUGARD supported this proposal.

121. REVISION OF THE QUESTIONNAIRE: APPOINTMENT OF A SUB-COMMITTEE.

The CHAIRMAN proposed the appointment of a sub-committee to revise the questionnaire

M. BEAU associated himself with this proposal.

Sir F. LUGARD asked whether it would not be advisable to revise the questionnaire annually.

M. RAPPARD, while recognising the advantages of this procedure, drew attention to the practical difficulties which would arise.

M. BEAU said that the control of the Commission must necessarily remain of a general character, and that the Commission should refrain from going too minutely into administrative details.

Of the proposal of the CHAIRMAN, Sir F .LUGARD, M. van REES, *and* M. ORTS *were appointed members of the sub-committee for the revision of the questionnaire.*

It was decided that the members of the Commission should forward their observations to the sub-committee whose task it would be to draft the new questionnaire.

122. ADMINISTRATIVE ORGANISATION OF MANDATED TERRITORIES *(continued)*.

M. van REES continued his statement:

"I venture to present another observation of primary importance relating to the various territories under B mandates, particularly the British and French Cameroons, the territory under Belgian mandate, and Tanganyika. The report which the Mandates Commission presented to the Council last year records, on page 5, that there was an exchange of views within the Commission on the question whether, in regions where there existed organised native communities under the description of Sultanates or kingdoms, it would not be advisable for the mandatory Power to conclude an agreement with the heads of these native communities, defining their powers and the powers which the mandatory Power reserved to itself.

"The report on the French Cameroons informs us, on page 61, that in the Moslem principalities in the north of the territory there is a fairly advanced political community with well-defined social and political arrangements. The report states that the Sultanates are of varying importance, but are, nevertheless, organised in the same way. The Sultan is the supreme master of all his subjects, but is assisted by a large number of notables, who form his council and ensure the execution of his wishes. We are thus confronted with organised States, with an organisation which is certainly far from perfect in the political sense, but which is, nevertheless, very superior to the tribes and to the clans whose organisation is dealt with elsewhere in the report.

"The French Government has fortunately not abolished these native communities. On the contrary, it has maintained them and done its utmost to perfect their administrative arrangements. It has recognised them, not *de jure*, but *de facto*, as organised native communities of an autonomous character, and has drawn from this practical situation the only deduction which seems possible in the circumstances: namely, the adoption of a system of indirect administration which resolves itself, as the report phrases it, into duties of direction and supervision.

"The question arises (the report does not mention this point) whether this form of administration does not involve the conclusion of a previous agreement with the chief of such a community, in which the Government should either define in detail the legislative and administrative powers of the two parties, or in which the native chief should give an undertaking to the Government to observe, and to cause to be observed, by his officials and subjects all the laws and regulations applied to his territory. The Government might suppress entirely the power of the Sultan and of his ministers. He might, if it appeared advisable, act without their intermediary, either depriving them of their powers or using them simply as officials without any right to personal authority. This would be the system of direct administration. If, on the contrary, the mandatory Power does not think this form of administration to be desirable, if it feels called upon to adopt the indirect system because its own interests and those of the territory require it to make use of the prestige of the Sultan and of the influence of those collaborating with him, imposing on them only certain leading principles of government, it cannot logically follow this policy without defining the position occupied by the Sultan within the political system adopted. The reason for this is to be sought in the fact that the system of indirect administration amounts to a limited administration voluntarily adopted, and a limited administration entails the previous definition of the degree of limitation. What would be the character of a limited administration the limits of which were nowhere defined ? In the absence of such definition, the Government would be completely free to act in its discretion in all circumstances, and consequently, under the regime of indirect administration, the autonomy of the native territory might become a fiction, or, at any rate, lose its essential significance.

"The adoption of the system of indirect administration does not hinder the Government from stipulating, for example, that any imposition of new taxes shall be submitted for its approval, that only the mandatory Power shall have the right to exercise penal justice, and that no land shall be surrendered or alienated without its previous approval. Such limitations of the power of the native chief are perfectly compatible with the idea of indirect administration on the one hand, and with native autonomy on the other, provided that this conception is explained in some agreement. It is naturally understood that this agreement would not be concluded once and for all, but that, on the contrary, it might be modified or amplified as circumstances required."

M. ORTS asked M. van Rees whether he thought that the word "agreement" expressed his idea. An agreement could only be concluded between two independent parties. Such a conception implied that the chiefs would negotiate on a footing of equality with the mandatory Powers. In the mandatory system the only two intervening parties were the League of Nations and the Power to whom the League had entrusted the mandate. To compel a mandatory Power to sign agreements with certain native potentates would be to introduce a third party. The use of the word "agreement" raised, therefore, more than a mere question of form.

M. d'ANDRADE agreed with M. Orts. The mandatory Power responsible for the administration of the territory must be entirely free to employ or not to employ the native chiefs in the interests of the territory without being bound in any way.

Sir F. LUGARD was of the same opinion. Certain mandatory Powers, however, might have embodied in ordinances and regulations or in instructions issued to their administrative officers the principles which guided them in this matter, and they might quote these ordinances or instructions in their reports.

M. van REES supported this suggestion.

M. ORTS said it was essential to realise clearly that there could not be an agreement. The amount of power left to the native chiefs would depend on the guarantees offered by each of them, and there could not be a uniform system of rules.

M. BEAU said he agreed with the observations of his Belgian and Portuguese colleagues.

Sir F. LUGARD, replying to a remark of M. van Rees, thought that it would sometimes be difficult to inform the native chiefs concerned of the instructions in the form in which they were given to the administrator. The chiefs would be informed of any laws or regulations controlling their actions or recognising the institution and powers of native tribunals, etc. The instructions given to administrative officers, on the other hand, would be concerned rather with the methods which should be adopted with the object of instructing a chief how to improve the Government of his country, viz: by delegating powers to subordinate chiefs, by organising and improving the method of assessment for taxation, etc. The system of a treaty or agreement had been adopted

by the British Government in Uganda in the early days of African administration. It had not been adopted in more recent times, as, for instance, in Nigeria.

The CHAIRMAN, summarising the discussion, noted that the Commission did not suggest that any one procedure was preferable to another. It simply desired that relations with the native chiefs should be developed and it wished to be informed of this development by means of the questionnaire.

M. van REES concluded his statement as follows:

"The Administrative Council of this territory does not include natives among its members and substitute members. The Decree of April 14th, 1920, does not appear to have been modified since that date. The Administrative Council of French Togoland, on the other hand, included from the outset two native chiefs, a full member and a substitute member, and to-day includes four natives, two full members and two substitute members (decrees of August 5th, 1920, and March 6th, 1923). I should like to know whether there is any essential reason against associating the natives with the work of the Administrative Council of the French Cameroons.

"The reports on the French Cameroons contain no reference to councils of native chiefs, such as were instituted in French Togoland by the Decree of February 17th, 1922. These councils are an institution representing a remarkable collaboration of the natives in the general conduct of affairs. The same institution does not exist in the French Cameroons, and the question arises whether there are any essential reasons for which the collaboration of the natives in this particular way is not advisable in the French Cameroons."

M. ORTS, without discussing the substance of these various questions, was of opinion that it would not be well to raise them in terms which would give rise to the idea that the Commission appeared to be expressing the desire to see natives sitting on the councils.

Sir F. LUGARD, M. BEAU and M. d'ANDRADE supported this observation.

The CHAIRMAN noted that the Commission was agreed that in putting questions it should not appear to be showing any particular bias.

M. RAPPARD reminded the Commission that under the Rules of Procedure it was not supposed to recommend the adoption of any particular methods when hearing the accredited representatives. The recommendations of the Commission would only appear when its report was drafted.

123. PRELIMINARY EXAMINATION OF THE REPORTS ON THE ADMINISTRATION OF THE FRENCH CAMEROONS AND THE FRENCH TOGOLAND.

Slavery and Labour.

Mr. GRIMSHAW said that his report which was before the Commission (Annex 5) was written some time ago and would have to be modified on certain points in order to take account of information contained in the annual reports which had since arrived. He desired to add the following observations:

(1) His report remained the absolute property of the Commission, which alone would judge whether it should be published or not.

(2) It appeared from certain of the annual reports that there existed a kind of legal recognition of the status of slavery. For example, the report of 1922 on French Togoland said that it was sufficient for slaves to present themselves to the administrator of their district in order to recover their liberty. According to the report of 1921, slaves recovered their liberty on condition of paying their contributions etc. The existence of conditions for the recovery of liberty constituted a kind of indirect recognition of the status of slavery. It appeared that this legal recognition also existed to some extent in British Togoland.

(3) The slave trade seemed to have disappeared in the territories under B mandates. On the other hand, there was a reference to it in the report on the French Cameroons, page 11. Domestic slavery existed in all the territories under B. mandates, as well as in South West-Africa and New Guinea. One of the most urgent measures necessary would appear to be the absolute abolition of any kind of legal recognition of the status of slavery. This would appear to be the first step to be taken in any campaign against this evil.

(4) Finally, it would be advisable, as M. van Rees had suggested, to revise the questionnaire, which might be very greatly improved on certain points, particularly in the chapter on labour.

Sir F. LUGARD pointed out that, according to certain passages in the report on British Togoland, slavery, in effect, existed in that territory.

Traffic in Arms.

Sir F. LUGARD pointed out that he had only been asked to deal with the question of the liquor traffic. He would raise only the following question in regard to the import of arms: Was it better to allow the natives to obtain "trade powder" and flint-lock guns or leave them to make use of their poisoned arrows, which were infinitely more dangerous as weapons ? It appeared from the annual reports that the question of the traffic in arms was regulated in a satisfactory manner.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD said he wished merely to draw special attention to two matters in connection with the liquor traffic: (1) as to the definition of "trade spirits" and (2) as to the equalisation of the duties levied on spirits in neighbouring territories.

M. BEAU, referring to the definition of "trade spirits", said that particulars might be asked at the meeting to be held on the following day in the presence of M. Duchêne.

Sir F. LUGARD said that, according to the meaning generally attached to it in Africa, the expression "liquor traffic" covered only spirits destined for trade with the natives and not spirits destined for the white population. In regard to the equalisation of duties, the Union coloniale française had adopted the following resolution:

> "It is necessary in the interim to unify the regulations concerning the import and sale of alcohol, especially as regards the prohibition of the sale of alcohol otherwise than in bottles or less than one litre, as well as to unify the duties in force, raising them to the highest possible level calculated on a gold basis."

Replying to a remark made by M. BEAU to the effect that this resolution referred not only to trade spirits but to spirits of every kind, Sir F. LUGARD said that he supported only the second part of the resolution, *viz.* that concerning the uniformity of duties and the raising of them to the highest possible level.

M. d'ANDRADE thought that this question of the trade in spirits was of the utmost importance. Could alcohol be prohibited to the native population if it were permitted to the white population ? A distinction of this kind could not be reconciled by the native with the idea of justice so profoundly rooted in his mind. It was not the question of trade spirits which should be discussed but the question of prohibiting trade in spirits of any kind. The second Assembly had discussed this question at length. Lord Robert Cecil had proposed to authorise the introduction of drinks of not more than 12 degrees, which would tend to the exclusive use of wine and beer. Whatever the price at which alcohol was sold, the natives would do their utmost to procure it if they saw that the white population was also consuming it. Moreover, the report of Sir F. Lugard contained a mis-statement as regards the Portuguese Possessions, where every kind of distillation was now suppressed. It had been suppressed in Mozambique since 1892 and in Angola since 1911.

Sir F. LUGARD observed that, whatever might be the opinion of individual members on thir question of total prohibition to Europeans and natives alike, it was clear that those who had drafted Article 22 of the Covenant had intended to discriminate between the two races. The abolition of "abuses such as the slave trade, the arms traffic, and the liquor traffic" were lower down described as "safeguards in the interests of the indigenous population". It was still more clear in the Convention of St. Germain of September 1919, where, by Article 4, spirits may even be brought into prohibition zones for the use of non-natives. Account should be taken of the fact that Europeans on low salaries such as employees on the railways, etc. might be driven to consume native-made intoxicants, which were probably more injurious than European spirits. He would very gladly correct the statement in his report regarding the Portuguese Possessions.

The CHAIRMAN doubted whether the interpretation of M. d'Andrade, however just it might be, could be quite reconciled with the terms of the mandates.

M. d'ANDRADE said that he had simply fallen back on the proposal of Lord Robert Cecil, which did not demand complete prohibition. Statistics showed that alcohol was proportionately more injurious in the colonies than in Europe. There were no valid reasons why it should not be prohibited to the Europeans as well as to the natives. Article 22 of the Covenant said actually "the prohibition of abuses such as the slave trade, the arms traffic, and the liquor traffic" without any distinction of black and white.

The CHAIRMAN noted that, according to his Portuguese colleague, the interests of the natives could not be safeguarded unless account was taken of the conduct of the white population.

M. ORTS, while recognising the value of the argument presented by M. d'Andrade, feared that his proposal could not have any practical result. The question had been discussed on many

occasions, particularly at the last international conference on the traffic in spirits held under the Brussels Act. No formal conclusion had been reached.

Moreover, M. Duchêne, who was particularly competent on this question, would be able to provide some interesting information.

M. BEAU feared that the question raised by M. d'Andrade was outside the scope of the Commission, which was concerned with the welfare of the natives and not of the white population. He referred to the objections which had been raised when the Commission had dealt with the question of the German colonists in South Africa.

The CHAIRMAN took this opportunity to inform his colleagues how this discussion had proceeded before the Council. Doubt had been expressed in the Council on the right of the Commission to concern itself with the non-native population. Further, most of the Members of the Council, including several who had voted for the South African resolution on this question, associated themselves definitely with the reserve made by M. Branting where this right was stated positively. Personally, he believed that the Commission, thanks to its right of initiative, could express its opinion on this question. He had defended this view before the Council and he would like to have the opinion of his colleagues on the attitude he had adopted.

Sir F. LUGARD supported the view of the Chairman.

M. RAPPARD said that at the meeting of the Council the Members of the Council, without associating themselves with the abstention of M. Branting, had associated themselves in principle with M. Branting's declaration. He read the passage in question from the Minutes of the Council (Minutes of the 24th Session of the Council: *Official Journal*, June 1923, pages 603-604).

The CHAIRMAN noted that his colleagues were unanimous in taking the view that the Mandates Commission had duties to perform which could not be limited.

Liberty of Conscience.

The Commission, in the absence of Count de Ballobar, passed to the next chapter.

Military Clauses.

M. BEAU said that the annual reports were satisfactory with regard to this question.

Economic Equality.

M. ORTS said that the Commission had decided last year to put a question to the British Government on the subject of differential tariffs.

M. RAPPARD pointed out that a reply would be found in the report on British Togoland. There was no preferential tariff, but there was a Customs union with the Gold Coast.

Sir F. LUGARD, replying to M. Orts, explained that this was not a case of a preferential tariff for imports into the mandated area but only a reduction of the duty imposed upon imports into Great Britain, such as obtained for other territories of the British Empire. A declaration in this sense had been made on the subject in the House of Commons by Mr. Ormsby-Gore.

Education.

Mme. BUGGE-WICKSELL presented the following observations:

1. The report on the French Cameroons indicated that, although the number of schools had increased, the number of pupils had diminished.
2. As regarded the non-recognised mission schools, it would be well to know the curricula of instruction in order to ascertain whether they were adapted to the needs of the population. It would also be well to know something with regard to the competence of the teachers in these schools.
3. Were evening classes for adults held in the villages or only in the urban centres ? Were these classes confined to instructing natives in French ? Would it not be well to add to this instruction the teaching of elementary hygiene ?
4. It would be desirable, if possible, for the Administrations to establish, as had been done in Palestine, a general programme for the annual development of public education, showing the approximate number of years which it would take to establish public education all over the country.

Public Health.

M. YANAGHITA said that the annual reports contained very few details on the question of prostitution. He proposed to put certain questions on the subject at the meeting to be held on the following day.

Land Tenure.

The study of this question, owing to its importance, was postponed to the following day.

Demographic Statistics.

M. YANAGHITA said that the French report, which went into so much interesting detail, nevertheless omitted to mention the tribal movements taking place on the Franco-British frontier and which were referred to in the British report. It would be interesting for the Commission to know the details and causes of these movements.

Public Finance.

The CHAIRMAN believed that it would be advisable to draw the attention of the Government to the two following points: (1) The budgets should be presented in full with tables giving the figures of each item for the different years so that comparison might be facilitated; (2) Certain expenses, those for example the natives relating to presented separately to should be.

THIRD MEETING (Private)

held at Geneva on Saturday, July 21st, 1923, at 10 a.m.

Present: All the members of the Commission except Count de Ballobar.

124. Policy in regard to State Domain.

The Chairman opened the discussion on the question of the policy of the mandatory Powers with regard to State domain.

M. van Rees summarised as follows his report on this question:

In the first chapter of my comparative memorandum with regard to the domanial regime in mandated territories B and C, I endeavoured to reply to the following two important questions:

I. Do the property rights and interests referred to in Articles 120 and 257 of the Treaty of Versailles which belonged to the German Empire or to the German States and which passed, in consequence of the coming into force of that Treaty, to the "Government exercising authority" over the former German colonies or were transferred with these territories "to the mandatory Power in its capacity as such", belong to these Powers in the sense of forming part of their domains ?

II. May the mandatory Power declare, by virtue of the legislative authority over the territory placed under its charge, which has been conferred upon it, that certain parts of that territory form part of its domain ?

To these two questions I can only reply in the negative.

According to the annual reports so far placed before the Permanent Mandates Commission, only one of the mandatory Powers has clearly disclosed its point of view with regard to these questions.

The French Government, in its report for 1922 on the mandatory administration of the territory of the Cameroons, expressed its point of view in the following terms, which will be found on page 52, column 2:

Legally, the private domain of the State exists already in the Cameroons. The word "State" must not give rise to confusion. Although the domain which has thus devolved was formerly the domain of the Imperial "Crown", nothing in the texts shows that this domain has passed to the French State, that is to say, to the Central Government; there is nothing to prevent this domain from being considered as it should be, namely, as local domain held under the same title as that possessed by the departments (*départements*), colonies and municipalities and separate from that of the Central State, from which these public establishments differ by virtue of the rights of ownership and disposal over their domain, which they possess.

"The special domanial character of this property", so runs the argument, "is not affected by the fact that the central authority exercises administrative control over the acts of the local authority; thus, the attribution to the central authority of the power to act with a view to the disposal of areas of a certain importance does not at all imply that the central power must be considered as disposing of his own property."

Finally, these views are confirmed in the statement which will be found on page 53, column 1: "The resources obtained from the domain help to supply funds for the budget of the territory, which has to provide for all productive expenditure. A single State has been constituted by international law — a State which henceforth possesses its domain as it possesses its budget".

These explanations appear to me to leave no room for doubt. According to the French Government, the expression "State domain" (*domaine de l'Etat*) in the domanial legislation promulgated in respect of the Cameroons — and it is obvious that this applies also to Togoland — does not refer in any way to the domain of the metropolis but exclusively to the special domain of the territory under mandate which has been established as a "State by international law, *i.e.*, in the case in question, by the Treaty of Versailles. This view agrees appreciably with the argument which I upheld in my memorandum on the domanial regime, in which I endeavoured to show that the mandatory Power is not entitled, either by the Treaty of Versailles or by the instrument creating the mandate, to declare, by legislative act, certain parts of the territory under its charge to be the domain of the mother-country, and that in so far as the provisions of its legislation to this territory would justify an interpretation to the contrary, it would be desirable to rectify these provisions by indicating clearly that the domain in question is no other than the special domain of the territory.

If this is the conception which the French Government has intended to put into practice, I wonder whether it is advisable to maintain in their integrity legislative provisions which may too readily be interpreted in a manner not corresponding with the intention of the legislator ? We

must not forget that, whatever the report on the Cameroons says — and it affirms that nothing in the texts of the domanial provisions shows that the domain in question has passed to the French State — the contrary may be maintained with reason, inasmuch as these texts expressly designate certain categories of land in the Cameroons and Togoland as "the private domain of the French State" (see Article 2 of the Ordinances of September 21st, 1921, and April 6th, 1922). Nor must we forget that the argument that the mandated territories have been established as "States by international law" is not and cannot be universally admitted as incontestable. In these circumstances, it appears to me that it would be greatly preferable to say exactly what was intended to be said, and this could be done extremely simply by substituting for the term "State domain" the expression "domain of the Cameroons" or "of Togoland".

As regards the other territories of types B and C, with regard to which provisions exist making mention of domain or Crown land, there is no commentary to show us the exact meaning of the provisions in question, in the view of the Governments concerned.

Sir F. LUGARD said he approved the conclusions of M. van Rees.

M. ORTS reminded the Commission that he had already expressed his point of view last year.

This point of view he summarised as follows:

(1) In the mandated territories the property constituting the State domain or Crown lands belonged to the entity, to the community constituting the mandated territory.

The mandatory State, as such, administered this domain in the interest of the community. If the present mandatory State transferred its authority to another Mandatory it would retain no rights over the "State domain". The new Mandatory would assume the management of the State domain at the same time as it assumed the administration of the territory. From this it followed that the revenues of the State domain and, if the case arose, the profits from its alienation ought to be paid into the budget of the mandated territory. The Commission should assure itself that this was always the case and it should be mentioned that this control would be difficult in the case of a mandated territory which had become attached, as an integral part, to a neighbouring colony.

(2) The meaning of the terms "State domain" and "Crown lands" being well defined, it would be a pity to substitute for them new terms such as "domain of the territory" which might lead to confusion.

State domain or Crown lands existed in colonies, and protectorates which were not States, but the administration of which was distinct and the finances of which were clearly separated from those of the home Government. The use of these terms had not, however, afforded the home Government a pretext for maintaining that these domains actually belonged to it and that their revenues could serve to swell the income of the home Government.

M. van REES thought that the expression used did not greatly matter provided it were clearly defined. It was necessary to avoid the expression used being ever interpreted in the sense that the territory in question belonged to the mandatory State.

The CHAIRMAN thought that the Commission should clearly formulate its views on the subject once and for all.

Mme. BUGGE-WICKSELL asked whether it would not be advisable to invite the Governments to introduce into their land ordinances a definition of the term "Crown lands" or "domaine de l'Etat". She saw the point raised by M. Orts and thought that in this way satisfaction might be given both to him and to M. van Rees. In Australia and New Zealand legislative terms were often defined in a special article of the ordinances concerned.

Following an exchange of views *the Commission decided to invite the Governments to define their views on this question and the exact meaning of the terms employed.*

125. *Publication of Reports of Members of the Commission.*

The Commission decided to annex to the printed Minutes the reports presented by M. van Rees, Mme. Bugge-Wicksell, Sir Frederick Lugard, Mr. Grimshaw and M. Yanaghita. Annexes 2, 3, 3*a*, 3*b*, 4, 5 and 6.

It was understood that the publication of these reports involved only the responsibility of their authors and that the views of the various members of the Commission would be recorded in the Minutes.

126. EXAMINATION OF THE REPORTS ON THE ADMINISTRATION OF FRENCH CAMEROONS AND FRENCH TOGOLAND IN THE PRESENCE OF M. DUCHÊNE.

M. DUCHÊNE, the accredited representative of France, came to the table.

The CHAIRMAN welcomed M. Duchêne and expressed to him, as representing the French Government, the thanks of the Commission for the excellent reports which had been presented on the administration of French Togoland and the French Cameroons. He reminded M. Duchêne that the questions which would be put to the representatives of the mandatory Powers were being asked with a view to obtaining information for the Commission.

Administrative Councils.

M. van REES asked why the Administrative Council of Togoland provided for the collaboration at first of two and recently of four natives, whereas no native collaborated in the work of the Administrative Council of the Cameroons.

M. DUCHÊNE observed that the decree relating to Togoland was quite recent. It dated only from March 6th, 1923, and represented a new stage of development which would shortly be applied to the Cameroons. It was necessary to take account of the fact that the population was not the same in the two territories and that the organisation of Togoland was more developed than that of the Cameroons. The question of a wider participation of natives in the administration of the Cameroons was, however, under consideration. Native representatives would be able to collaborate in the work of the administrative councils, or local native councils would be established, or possibly a combination of these two methods might be tried.

The report on the Cameroons indicated (page 62) that the establishment of Councils of native chiefs was under consideration, and it might be said at once that the Cameroons would not be far behind Togoland in the matter of native collaboration. It might even prove to be in advance of Togoland, for there existed in the Cameroons communities which were already strongly organised and which had at their disposal considerable powers and resources.

Slavery.

Mr. GRIMSHAW reminded the Commission that in the reports on Togoland and the Cameroons it was stated that slavery had diminished. They indicated, however, that a revival of slavery was to be feared. He asked what might be the causes of this revival.

M. DUCHÊNE explained that the question of the revival of slavery arose only in the Cameroons, where ancestral customs could only be slowly modified. It could not, however, be said that there was any danger ; it was merely a case for careful supervision, and there was reason to hope that slavery would gradually disappear completely.

Mr. GRIMSHAW asked whether it was possible to have at once supplementary details on the measures which the Administration proposed to add to the laws against slavery (Report on the Cameroons, pages 11 and 12).

M. DUCHÊNE explained that the emancipation of a slave could only be gradually achieved. Unless the freed man could be assured of the means of subsistence he did not desire his freedom. It must not be forgotten that there were very benevolent forms of slavery, particularly of domestic slavery. Villages were gradually being constituted where a free life for the natives was organised, but such an organisation could not be suddenly effected. In the Cameroons it was particularly in the northern region that slavery was deeply rooted, but it might be said that in Togoland it had completely disappeared.

Mr. GRIMSHAW asked whether it was not possible to have immediately some precise information as to the methods adopted in connection with the villages where free existence for the natives was being organised. He asked whether the Administration recognised the status of the natives who had not yet been enfranchised.

M. DUCHÊNE said that the next report would contain all the details required on the organisation of the villages in question and declared that the French law never recognised slavery.

Sir F. LUGARD asked whether, in certain cases, an indemnity was paid to the owner of the slave if, for example, the slave had been inherited or born in the house.

M. DUCHÊNE replied that no indemnity was ever paid and that for this reason it was necessary to proceed gradually.

Sir F. LUGARD asked whether the natives might redeem themselves by paying a ransom. He knew from experience that the Moslems did not recognise enfranchisement granted by foreigners.

M. DUCHÊNE said that the French courts had never been called upon to deal with affairs of this kind, which were of a private character.

The CHAIRMAN asked whether a passage of the report on the Cameroons (apostacy of one of the married pair, page 134) did not constitute a legal recognition of slavery.

M. DUCHÊNE explained that the provisions relating to the effects of marriage, so far as the married pair was concerned, were a summary of existing Moslem law. It was impossible to reform Moslem law, but it might be hoped that gradually it would approach more and more nearly to the French conception.

The CHAIRMAN asked how, in case of divergence, French and Moslem law were generally reconciled as regarded native customs.

M. DUCHÊNE explained that these questions, were very difficult to settle and that, generally speaking, in the countries administered by France where there were two kinds of jurisdiction a "chambre d'homologation" [1] was asked to deal with the more delicate cases. It was thus possible to soften the severity of certain customs authorised by native law which seemed incompatible with French ideas. In Algeria a further step had been taken. The religious laws of the Koran had been codified, and, in order that this code might be accepted, natives had collaborated in its preparation.

Labour.

Mr. GRIMSHAW observed that in the Cameroons the submission of labour contracts to the Administration seemed to be voluntary (Report, page 36, Article 4). In Togoland, however, the submission of labour contracts to the Administration was compulsory.

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[1] "Homologation" in this connection means approval by a court of acts subject to judicial supervision.

M. DUCHÊNE explained that this difference was due to the fact that the occupation of Togoland was more complete than that of the Cameroons. In the Cameroons the Administration required important contracts which were concluded in an occupied region to be submitted to it. If, however, the contracts were concluded in a distant region, it would be idle to assert that they must be submitted to the Administration. Gradually, however, all contracts, whether in the Cameroons or in Togoland, would be so submitted.

Mr. GRIMSHAW pointed out that labour contracts in Togoland provided for minimum measures of health and security for the workers, whereas this condition did not appear in labour contracts in the Cameroons.

M. DUCHÊNE explained that the present development of Togoland enabled a greater precision to be achieved than was the case in the Cameroons, where the Administration was nevertheless in progress of development.

Mr. GRIMSHAW asked what were the disciplinary powers of the employer in Togoland and the Cameroons.

M. DUCHÊNE replied that no disciplinary powers had been given to the employer personally in Togoland and the Cameroons. This was the settled policy in all territories administered by France.

Mr. GRIMSHAW remarked that in the chapter on penalties (Report on the Cameroons, page 137) no mention was made of cases where the contract was broken by the employer.

M. DUCHÊNE explained that certain provisions of this chapter could be applied to the employer, and that the law might be gradually developed according to needs.

Sir F. LUGARD asked how the German private estates which, under the Treaty of Versailles, had been ceded to the Allies, were being dealt with. The Germans had resorted to compulsory native labour in order to develop these properties.

M. DUCHÊNE said that compulsory labour had been abolished. Large official colonisation undertakings no longer existed. The properties had been leased to private enterprises which concluded labour contracts.

M. BEAU asked whether there was still any German property in the Cameroons.

M. DUCHÊNE replied that all German property had been sequestrated, subject to previous purchase by public services, and sold by auction.

Sir F. LUGARD reminded the Commission that the produce of the sale of German property had to be paid to the account of the Reparation Commission. He would like to ask what became of the continuing assets, *e.g.*, rentals of the properties let on lease. The same question arose for several of the territories under mandate.

M. DUCHÊNE thought that the proceeds of the leased property should be entered among the receipts of the domain of the State.

The CHAIRMAN read Articles 256 and 260 of the Treaty of Versailles. He thought that the question of the sale of German property was of interest, but it was the concern rather of the Reparation Commission.

The other members of the Commission agreed with the opinion expressed by the Chairman.

It was decided that this question of the revenue derived from the sequestrated property and from the alienation of the same should form the object of a special investigation.

M. ORTS asked whether private initiative had shown itself ready to acquire German property put up for auction and whether the exceptional regime of the mandates had inspired confidence in the public.

M. DUCHÊNE replied that a distinction must be drawn between buildings, on the one hand, and plantations and land for exploitation, on the other. Buildings had been eagerly taken up, but, as at the outset there had been some doubt as to the practical application of the mandates, the public had shown less eagerness in acquiring the lands and plantations. Now, however, this uncertainty had disappeared.

M. BEAU asked whether the abolition of compulsory labour had injuriously affected the economic prosperity of the territory.

M. DUCHÊNE replied that free labour amply sufficed for the exploitation of both the old and the new enterprises. Another reason which explained why rural property had been less in request than buildings was that rural property was only productive after a long period and that its development was always attended by certain risks.

M. BEAU thought that these declarations were very interesting for the Commission, for they showed that the new conditions introduced into the territory in application of the Treaty of Versailles had had prosperous economic results.

Arms Traffic.

M. DUCHÊNE, replying to a question of Sir F. LUGARD, said that the importation of any kind of gun or gunpowder was completely prohibited and that the Convention of St. Germain was applied in its entirety.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD asked whether the definition of trade spirits as applied to Togoland and the Cameroons had given satisfactory results, particularly as regarded the practice of indicating certain brands; had there been any difficulties or complaints from foreign firms ?

M. DUCHÊNE said that he did not think that there had been difficulties in the Cameroons. The question had arisen rather in Togoland, where certain drinks such as "elephant gin" had been prohibited although they were not prohibited in the neighbouring foreign territories. Generally speaking, it was very difficult to give a definition of trade spirits. It was only possible to proceed indirectly and to consider that all drinks containing dangerous elements should be prohibited under the Convention of St. Germain, as well as all spirits of more than a certain strength and all spirits sold at a very low price. Such a state of affairs could never be altogether satisfactory.

Sir F. LUGARD asked whether the French Administration understood the term "liquor traffic" as applied only to spirituous liquors used as an article of trade or barter with the natives in West Africa or whether it was used to denote any dealings in intoxicants.

M. DUCHÊNE replied that no distinction was made between native and non-natives. Certain spirits were entirely prohibited. In fact, only spirits sold at a high price could be introduced, and it was becoming more and more difficult for the natives to procure them.

Sir F. LUGARD asked whether M. Duchêne thought it possible to arrive at uniformity of duties on spirits for neighbouring territories. Uniformity would have as a principal advantage the effect of hindering smuggling.

M. DUCHÊNE thought that this was not only possible but desirable. It was a question of making arrangements between the neighbouring authorities. It would be well if at the same time an agreement could be reached on the character of certain drinks which were prohibited or not prohibited, but this was a more difficult question.

Sir F. LUGARD thought that it would be useful to achieve uniformity in the Customs duties based on alcoholic strength, *viz.*, increasing or decreasing above or below a fixed standard.

The CHAIRMAN thought that the Commission might make a recommendation in the sense of the desire expressed by Sir F. Lugard.

M. DUCHÊNE did not think that the Commission could do more. The Powers were bound by an international convention. Any new measures would necessitate a fresh conference of the same Powers. There was to-day a minimum duty of fcs. 800, which countries either observed or exceeded. It was on this point that an agreement might be reached without a new convention, thanks to the development of relations between neighbouring territories, a development which might immediately be encouraged.

M. BEAU was of opinion that the Commission might issue a recommendation to the effect that the authorities of the neighbouring territories should agree among themselves to apply a uniform rate of duty to alcoholic drinks.

It was agreed that Sir F. Lugard should submit to the Commission the text of a recommendation to this effect.

Sir F. LUGARD wished to know whether there were any particular difficulties in the way of prohibiting the tapping of oil-palms for the manufacture of palm wine and whether it was thought to be sufficient to establish a penalty of four francs for each offence.

M. DUCHÊNE replied that it was not possible completely to suppress the manufacture of palm wine. The authorities were obliged to content themselves with restricting it more and more.

M. BEAU added that the annual reports contained precise evidence of the fact that it was impossible to prohibit completely the manufacture of palm wine. The authorities had only taken steps to prevent or to restrict the sale of palm wine in certain parts of the territory.

FOURTH MEETING (Private)

held at Geneva on Saturday, July 21st, 1923, at 3.30 p.m.

Present: All the members of the Commission except Count de Ballobar.

127. Telegram to Mr. Ormsby-Gore.

M. Rappard informed the Commission that he had received from Mr. Ormsby-Gore a telegram to which he proposed to reply as follows: "Your arrival Wednesday morning August 1st satisfactory to Commission. If you can arrange with Sir Edgar Walton and Major Herbst that they arrive Tuesday instead of Wednesday as previously fixed kindly wire your decision."

The Commission agreed to the despatch of this telegram.

128. Examination of the Reports on the administration of the French Cameroons and French Togoland in the presence of M. Duchêne *(continued)*.

Liberty of Conscience.

Sir F. Lugard asked whether, in the regions occupied by Moslems, restrictions had been placed on the activity of the Christian missions as was the case in the Sudan and in Nigeria.

M. Duchêne said that he did not think this was the case. No difficulties had arisen in the matter. Except in the northern regions, the Moslems did not live in the Cameroons in groups sufficiently compact, nor were they sufficiently zealous for the question to arise.

Military Clauses.

M. Duchêne, replying to the Chairman, said that since the previous report had been written there had been no changes in the number of troops or in the system of recruiting or as regards the establishment of naval or military bases. Recruiting was always voluntary.

The Chairman asked whether there had been any increase in the number of natives leaving to recruit in neighbouring colonies.

M. Duchêne could give no precise information on this point in the absence of any means of verifying the facts. To his knowledge there had been very little movement of this kind and there was no further recruiting at present. In any case there had been no raising of troops for service outside the mandated territory. It would be well to clear up a misunderstanding in this connection. Three years ago troops coming from a region situated to the north of Togoland, in the French Soudan, had been embarked in Togoland, and it had been wrongly believed that these were troops actually raised in Togoland. In order to avoid any misunderstanding, this practice had been discontinued.

Sir F. Lugard observed that the French mandate, unlike the British mandate, authorised the recruiting of troops for service outside the territory.

M. Rappard read the passage of the French mandate relating to this question.

M. Duchêne stated that the French Government had desired to receive its rights in the event of a general war taking place.

Economic Equality.

The CHAIRMAN pointed out that, by an Order of May 10th, 1921, the Decree of February 17th, 1921, regulating the Customs regime in French Equatorial Africa had been made applicable to the Cameroons. Article 54 of this Decree was as follows:

> "All goods imported from abroad are regarded as foreign goods.
>
> "Goods of French origin or goods coming from French colonies must be imported direct, subject to the benefits of the regime contemplated in the tariff for goods of such origin. Goods of the first class must be accompanied by certificates from the French Customs authorities and goods of the second class by certificates of origin given by the colonial Customs authorities if the goods in question are raw products of the colony."

The CHAIRMAN quoted, in this connection, the passage on page 21 of the Minutes of the first session in which M. Rappard drew attention to the importance of respecting the principle of economic equality; the United States had made their approbation of the mandates conditional on the adoption of this principle.

M. DUCHÊNE said that as a matter of fact there was no preferential import régime for Togoland and the French Cameroons. The régime in force was one of the strictest economic equality. The question had a different aspect as regarded goods coming from Togoland and the Cameroons and imported into France. The decree in question, which had been adopted for other territories and extended to countries under mandate, dealt with the general working and administration of the Customs service; the part relating to the tariffs, moreover, was useful and had merely been reproduced for some territories where it did not apply. Clearly it should have been mentioned that the decree in question was applicable with the exception of certain articles.

The CHAIRMAN explained that certain complaints had reached him to which he had not attached much importance. He hoped not only that there was no difference of tariff but that also troublesome formalities were not imposed.

M. DUCHÊNE replied that he would be happy to be informed of any facts which might be brought to his notice. The practice in question doubtless resulted from excess of zeal, but it would be immediately discouraged.

Replying to observations of Sir F. LUGARD and the CHAIRMAN, M. DUCHÊNE said that in effect a further Order of November 17th, 1922, had extended to Togoland the Decree discussed above. It would be possible, if the Commission so desired, to issue a supplementary decree specifying that the article in question did not apply either to the Cameroons or to Togoland. The position was explained by the fact that, in order to ensure the working of the Customs service, hurried steps had been taken and the regulations existing in French Equatorial Africa had been brought into service. It would be easy by a complementary text to remove any doubts which might remain on the subject.

The CHAIRMAN and Sir F. LUGARD thanked M. Duchêne for his promise.

M. ORTS asked whether there were a Customs union between Togoland and Dahomey.

M. DUCHÊNE replied in the negative, adding that a scheme was under consideration. In practice, there was commercial equality for Dahomey since the Franco-British Convention of 1898, which was valid for 30 years and the advantages of which had been extended to other Allied and neutral States. A Customs union would therefore be quite possible. As M. Orts had observed, the Customs barrier between Togoland and Dahomey might therefore be removed. Its presence was explained by the fact that for Togoland the German tariff had at first been retained.

Sir F. LUGARD said he wished to raise a very important question of principle. Goods coming from Tanganyika did not benefit from the most-favoured-nation clause like goods from other British territories. Should not this clause be applied to the territories under mandate ? He instanced a case which had recently occurred of a consignment of coffee produced in Tanganyika which on its arrival in France had been refused the benefit of the most-favoured-nation clause.

The CHAIRMAN stated that to his knowledge the British and French Cabinets were at present dealing with this question.

M. d'ANDRADE thought that the territories under mandate, not being colonies, could not enjoy the same advantages as colonies if this were not clearly provided for in the commercial treaties, which, as seemed to him, always mentioned the territories to which they applied. It would be necessary to include in new treaties the mandated territories or to publish protocols extending the old treaties to these territories.

The CHAIRMAN read Article 8 of the mandate for the Togoland and Article 9 of the mandate for Tanganyika, according to which the mandatory Power would extend to the mandated territories conventions which would benefit those territories.

M. DUCHÊNE said that one article of the mandate under discussion and providing for the extension of international agreements seemed to apply exclusively to general conventions such as those referring to the traffic in women and children, the traffic in opium, industrial property, etc.

M. ORTS thought that the Commission should put a question on the point raised by Sir F. Lugard.

The CHAIRMAN invited him to formulate the question.

M. ORTS submitted the following text:

> "Is the import into foreign countries of goods coming from territories under mandate submitted as of right to the same régime applicable under commercial treaties to goods coming from colonies and protectorates of the mandatory State ?
>
> "In general, do the benefits of international conventions applicable to the colonies and protectorates of a State extend as of right to the territories over which the State exercises a mandate ?

He considered, however, that this text was not satisfactory; the question did not seem to them to be well put in this form. The benefits of the most-favoured-nation clause were certainly not accorded by right to the mandated territories. A special provision to this effect would be necessary in the form of an addition to the commercial treaties.

The CHAIRMAN thought that, according to the spirit of all the mandates, all the mandated territories should enjoy every possible benefit.

Sir F. LUGARD suggested that it would be simpler to recommend the Council to ask the Assembly to invite the Powers to extend the benefit of the most-favoured-nation clause to the territories under mandate.

M. RAPPARD wondered whether such an invitation should not be addressed to the mandatory Power rather than to the Power with which it had concluded the treaty. In other words, in the case under consideration, the recommendation would be addressed not to France but to Great Britain, since the latter had omitted to include the territories under British mandate among the regions benefiting from the most-favoured-nation clause.

The suggestion of Sir F. Lugard that the intervention of the Assembly should be requested seemed contrary not only to the Covenant but to the customary procedure of the Council and the Commission. The Commission should address a recommendation to the Council asking it to invite the mandatory Powers to open negotiations with the object of including henceforth the territories under mandate among those which would benefit from the most-favoured-nation clause.

M. ORTS accordingly submitted a new text in the following terms:

> "The Commission suggests that the Council should recommend the mandatory States to negotiate for the extension, to the territories over which they exercise a mandate, of the benefit of the commercial treaties, and in general of the international agreements applicable to their colonies and protectorates."

Sir F. LUGARD approved this text in principle under reserve of possible modifications.

On the suggestion of the CHAIRMAN, *it was agreed that the Commission should again examine the draft text proposed by M. Orts.*

M. ORTS strongly emphasised the state of inferiority in which the mandate system placed the inhabitants of mandated territories as compared with the inhabitants of colonies or protectorates. Their national status was undetermined, although the condition of a native of any respected country constituted for every individual an advantage and a safeguard.

It appeared that the inhabitants of mandated territories found that the foreign markets which were open to the merchandise of the colonies of the mandatory State were closed to the products of their industry.

If this stuation were not remedied, the result would be a serious hindrance to the economic development of the mandated territories.

Sir F. LUGARD, developing this train of thought, drew attention to a third point, namely, the lack of security and want of legal basis for titles to the possession of land.

Mr. GRIMSHAW added that, from the labour point of view, particularly as regards treaties of reciprocity, the position was not much better.

Education.

Mme. BUGGE-WICKSELL said she wished to put certain questions to M. Duchêne :

In the French Cameroons the number of village schools had increased, whereas the total number of pupils frequenting these schools had at the same time diminished. Could the French representative explain this fact ?

M. DUCHÊNE replied that there had been in practice a slight decrease in the number of official village schools and that there had been, on the other hand, an increase in the number of religious schools. It was explained in the report that there was a lack of teachers, especially of native teachers. Steps were being taken to train them. Further, the schools in question had been abandoned owing to their deficient organisation, to the profit of the religious schools which were established at their side. The total number of pupils had increased.

M. d'ANDRADE returned to the question which he had raised two years ago. It was necessary to give elementary instruction in the language of the country, otherwise the pupils deserted the schools or learned their lessons by heart and, therefore, without advantage. This was the opinion

of all the missions. The desertion of the pupils was perhaps due to the fact that elementary instruction was given in French which should be learnt later when the pupils knew already the elements. To give elementary instruction in French to native children would be as easy as to teach reading and writing to small Swiss children or children of other nationalities in Zulu or in Swahili.

M. DUCHÊNE thought that, though it was well to make use of the native languages for the necessary explanations, it was indispensable to teach a European language, in this case, French. French, moreover, was compulsory in the religious schools, which not only recorded an increase in the number of pupils but obtained scholastic successes. The American mission had secured 58 certificates (certificats d'études).

M. RAPPARD observed that the Americans followed very closely everything which concerned the mandates question. It would therefore be well to enquire how the American Missions regarded the teaching of French.

M. DUCHÊNE replied that the American missions engaged professional teachers and that they also had missionaries who spoke French. They had, moreover, at their disposal considerable financial resources.

Mme. BUGGE-WICKSELL continued her questions as follows:

The unrecognised schools instituted by the missions and spread over the whole territory of the French Cameroons and Togoland were regarded by the administration of the Cameroons as doing a kind of pioneer work. The administration was of opinion that the principal object of the missions in the matter of education should be the development of these small schools, which were in touch with the mass of the population. This opinion appeared to be justified. She would therefore be happy to obtain more detailed information on the programme of these schools and on the competence of the teachers.

M. DUCHÊNE, referring to the report, said that the administration of the Cameroons was not very exacting. As regarded the obligation to teach French, it distinguished between recognised schools where French was compulsory and non-recognised schools where it was not. The latter were nevertheless of unquestioned utility. These two kinds of schools were valuable elements in the moral and intellectual development of the natives and from this point of view accomplished, in effect, the work of pioneers.

As regarded their programmes of instruction, care should be taken not to go too fast and not to endeavour to make men of learning of all the little natives. Importance was attached to dividing the schools into two categories. The object was to enable the one kind to become more useful for the various crafts and therefore to develop technical and professional instruction. To this work the Catholic and Protestant schools both very largely contributed. The other class formed a superior class of school where the pupils received more advanced instruction so as to be able to supply employees for certain secondary duties for which it seemed unnecessary to employ Europeans.

As regarded programmes of instruction, the report for next year would give more precise information.

Mme. BUGGE-WICKSELL continued as follows:

Did the evening schools for adults work only in urban centres or also in the villages? In the latter case would it be possible, in addition to the courses in French, to organise in these schools courses of elementary hygiene, including the care of infants, domestic sanitation and the elementary principles of village sanitation?

M. DUCHÊNE did not think there existed evening courses in the village schools. It was already a good step forward that there should be any schools at all. The suggestion as to instruction in hygiene was excellent, above all in the girls' schools. Endeavour would be made gradually to achieve this, as well as to give instruction in household management and the care of infants.

Mme. BUGGE-WICKSELL put the following question:

Would it be possible for the administration of the territories under French mandate to elaborate a programme for the annual development of public instruction in these territories?

M. DUCHÊNE replied that this question would be dealt with in the report of the next year.

Sir F. LUGARD asked what kind of control was exercised by the administration over private schools which were conducted not by missions but by private persons who were often incompetent and without any qualifications and whose action might do harm. There had been difficulties in this respect in neighbouring British territories.

M. DUCHÊNE did not think that schools had been opened by private persons either in the villages or in the urban centres. If the case should arise, these private persons would be required to justify their titles and to submit to the control of the authorities.

Public Health.

The CHAIRMAN, in the absence of Count de Ballobar, congratulated the French Administration on the considerable expenditure under this head. He hoped that this state of things, which was a proof of the effort made in this branch of the administration, would be maintained and even improved.

M. van REES drew the attention of M. Duchêne to a passage in the report on the Cameroons, page 52, column 2, in the chapter relating to the "constitution of the private domain". What was understood by "private domain of the State" ? The report dealt with the matter as follows:

> "The word 'State' should not be misunderstood. Although the domain thus acquired was previously the domain of the Imperial Crown, nothing in the texts shows that this domain has passed to the French State, that is to say, to the Central Government. There is nothing to prevent this domain from being considered as it should be, namely, as local domain held under the same title as that in the possession of departments (*départements*), colonies, municipalities, etc., and separate from that of the Central State, from which these public establishments differ by virtue of the rights of ownership and disposal over their domain, which they possess."

The report adds that a "single State has been constituted by international law, a State which henceforth possesses its domain as it possesses its budget". Is it permissible to deduce from this point of view that the French Government considered these territorial domains, determined by an act of legislation, as a domain of the territory of the Cameroons and not as a domain of the French State ?

M. DUCHÊNE said that M. van Rees was dealing with one of the most delicate points of the organisation of the territory under mandate. There were two conflicting ideas. On the one hand, it followed from the Treaty of Versailles, Articles 120 and 257, that the mandatory State was substituted for the German State as regarded everything which had belonged to the latter. On the other hand, according to the conception of mandates, a country under mandate formed a particular entity distinct from the mandatory Power. It possessed by the side of and apart from the mandatory Power its special rights and duties and was to have, therefore, a particular domain, a private domain. The conflict between these two ideas was inevitably found also in the texts. Nevertheless, the French Government, so far as it was concerned, did not wish to oppose in any way the idea of a local domain to the idea of the domain of the French State, but it would endeavour in practice to blend them. Such is the view expressed in the report.

M. RAPPARD suggested an interpretation which offered an escape from the apparent contradiction. The Treaty of Versailles, in the Articles referred to previously, mentions the mandatory Power "considered as such". If the territories in question belonged not to France as France but to France simply as mandatory Power, this was equivalent to saying that the territories had passed to the institution as a whole of which the territory under French mandate was the material substratum. This point was merely of legal interest and would only have a practical bearing in the inconceivable event of a change of the mandatory Power. If, for example, France were to become tired of its mandate over a particular territory, the territory as well as the attributes of the mandatory Power would pass to another Power.

M. DUCHÊNE said that personally he thought that this was a logical interpretation of the position, as France could never forget the sacrifices which she had imposed upon herself.

M. van REES said that, according to Article 257, the property, rights and interests of the German State passed to the mandatory Power at the same time as the mandated territories. If the right of property were claimed over this property, these rights, etc., why was it not also claimed over the whole territory ? From such an interpretation it would result inevitably that there would no longer be any territories under mandate, that there would only be annexed territories.

Putting on one side the property, rights and interests mentioned in Article 257, there would still remain the other domains resulting from legislative acts, vacant lands, native reserves, etc. If this part of the domain were not considered as domain of the French State, but as local domain belonging to the territory, would it not be preferable to express exactly the real position, either by affixing explanations to the word "State" or simply by mentioning "domain of the territory" and not "domain of the State", in order to avoid all ambiguity and dispute on the exact nature of the territory under mandate ? Thus any unfriendly criticism of the mandatory Power would be avoided.

M. DUCHÊNE said that, whatever might be the apparent difficulties, the French Government had never intended to consider that the entire country passed to the mandatory Power. This would be the negation of the very idea of the mandate. The word "State" should not be misunderstood. A distinction should be drawn between the French State as a whole and the French State as mandatory Power. It was the latter which had inherited the property in question, and its rights could not be opposed to those of the territory under mandate. If the Commission thought it advisable, he would explain these difficulties to his Government. He thought, however, that the various points raised did not represent any very real practical interest. The discussion was mainly a question of words.

M. van REES said that the British Anti-Slavery Society, in a memorandum addressed to the Council, had attacked France precisely on this question.

M. DUCHÊNE and M. BEAU replied that this Society had misunderstood the situation.

There was an exchange of views between Sir F. LUGARD, the CHAIRMAN, M. ORTS, and M. DUCHÊNE on the question whether it would be advisable to ask the various Governments to define the terms "Private domain", "State domain", "Crown land", etc., or whether special decrees should be issued on the subject and published in the territories themselves.

On the suggestion of M. RAPPARD, *it was agreed that the Commission, after hearing the various accredited representatives of the Governments on the matter, should decide in what form it should present the question in its report to the Council.*

M. van Rees drew attention to the question raised on page 53, column 1, of the report: "Is the land which forms the collective property of the native inhabitants or which is held by chiefs acting as representatives of native communities, and which is designated in Article 2 of the Decree of August 11th, 1920, and in para. 2 of Article 1 of the Executive Order, to be regarded as the private property of the State ?"

The report answered that it was so regarded "in all cases in which the native sovereign power, whether vague or precisely defined, considered the vacant lands as a kind of domain". The documents in question, however, referred to "lands belonging to native inhabitants or to native communities by virtue of custom or tradition, but in respect of which no written title deeds existed". The lands in question were therefore clearly lands in respect of which, in accordance with legal provisions, property rights existed, taken from customary and traditional law. How could such land, or any part of such land, be regarded as the private domain of the State when the characteristic of the latter was precisely the absence of any property right on the part of any other person. Moreover, in a similar Order for Togoland of April 6th, 1922, this category of land was not included in the private domain of the State, as was shown by Article 1 of the Order, which established the various categories of land forming part of the private domains.

Logically, the lands belonging to the natives or to groups of natives, in virtue of custom or tradition, could not form part of private domain, which has been clearly recognised in the report on the Cameroons for 1921, in which, on page 37, column 2, it is stated that the exercise by natives of any right of property, individually or collectively, is inconsistent with description of the land affected as public domain.

M. Duchêne replied that in effect a very clear distinction was to be drawn between Togoland, where there were no great chiefs, and the Cameroons, where there were powerful sultans. In the Cameroons there existed lands of which the sultans made no use whatever. They were lands which were described as vacant lands. Would it be maintained that the mandatory Power had no right to deal with these lands ? If it were so, the progress, the very future of the country and its development would be at stake. It was quite understood that these lands could only be disposed of by agreement with the sultans interested. The point raised by M. van Rees was of a legal character. In the sphere of realities, everyone would appear to be agreed in accepting the point of view of the French Government.

Replying to a further observation of M. van Rees, M. Duchêne said that there was, in fact, an apparent contradiction between the very terms of the Decree and of the Order and actual practice, and he was glad that M. van Rees recognised that it was impossible to act otherwise than the French Government had done.

M. van Rees observed with much satisfaction that the report on page 53, column 2, indicated that a native landed property individualised and acknowledged as such according to custom could, by means of alienation, be invested with a regular title which placed it under the protection of common law, and that, even without previous transfer, the possibility was not excluded that a native might have his real right to the land recognised by an official act concluded before the administrator of his district. Two questions arose: out of the above-mentioned passage: first, what were the regulations in regard to land tenure in the Cameroons ? They did not seem hitherto to have been brought to the knowledge of the Commission, whereas for Togoland they were the subject of the Decree of December 23rd, 1922, which would be found on page 120 of the report on Togoland. Secondly, granted that it was possible, in principle, for a native to place his individualised real right to landed property under the protection of common law, was the same procedure also possible with regard to family or collective rights to landed property ? The report did not mention the matter. In Togoland the latter possibility appeared to be recognised. (see page 22, column 1, of the report relating to Togoland).

M. Duchêne replied that the system prevailing was the same as in French Equatorial Africa and French West Africa. The deed of property was established whenever there was a clear recognition of real right, and the title deeds thus obtained gave a legal right to the property in question. The legal provisions governing this system could be communicated to the Commission. As regarded the two questions raised, he believed that the situation was the same in the Cameroons as in Togoland.

M. van Rees said that the remarkable statement which would be found on page 55 of the report replied to all the questions raised during the meeting of the Mandates Commission of August 2nd, 1922, except the last (see Minutes of the second session, page 27). Should the Order of September 15th, 1921, be understood to provide that no transfer of property would be recognised unless it had been authorised by the Government, not only transfers in favour of natives originally belonging to regions other than the Cameroons or of Europeans but also transfers in favour of natives of the same village or of the same tribe.

M. Duchêne replied that the principle was as follows: the Administration only intervened when it was a question of ceding a native property not to a native but to a European. Transfers between natives might be effected without the intervention of the authorities.

M. van Rees observed that the report was silent in regard to the regime adopted in mines, a subject on which the previous report had given certain information (page 21). Would it be possible for the Commission to be informed of the Decree of October 23rd, 1920, extending to the

Cameroons the legislative provisions relating to French Equatorial Africa, together with the legislative provisions themselves ?

M. DUCHÊNE said that these texts would be included in the next report.

M. van REES said that the report on Togoland (page 22, column 1) indicated that the landed property belonging to individuals or communities might be inscribed in the land registers, and it referred to the Decree of December 23rd, 1922, applying to Togoland the provisions of the Decree of July 24th, 1906, which regulated landed property in French West Africa. Would it be possible for the Decree of July 24th, 1906, to be communicated to the Commission ?

M. DUCHÊNE replied in the affirmative.

Sir F. LUGARD, referring again to the question of the definition of vacant lands, thought that there was here a point of capital importance.

M. DUCHÊNE emphasised the difficulty of such a definition. It was necessary to take into consideration the meaning given to vacant lands by groups of natives themselves. There were many contradictions in this respect to be found in native customs. It was sometimes recognised that land was not vacant land, even when it had lain idle for centuries. Such land was domain of which the sovereign made no use whatever but which he claimed as his property, just as an owner of waste land of which he made no use could not agree to have his title called in question. It was difficult for European authorities to go as far as this in native countries.

It was agreed to resume the examination of the French reports in the presence of M. Duchêne on Monday July 23rd.

M. Duchêne withdrew.

129. PETITION RELATING TO THE ESTABLISHMENT IN THE FRENCH CAMEROONS OF A BRANCH OF THE SOCIETY KNOWN AS THE AFRICAN PROGRESS UNION.

The CHAIRMAN said that there was a question on which he wished to have the opinion of the Commission and he asked M. Rappard to introduce the subject.

M. RAPPARD explained that the Secretariat had received, last October, a petition from London from a group which desired the establishment in the French Cameroons of a branch of an association known as the African Progress Union. From information supplied it transpired that the above association was a society for the promotion of progress among the natives. The French Government appeared to be opposed to the establishment of a branch of this society in the Cameroons, believing that its objects were not compatible with public order. The petitioners were protesting against this decision. According to a decision of the Council, petitions which did not come from the inhabitants themselves of the territories under mandate were communicated to the Chairman of the Commission. The Chairman, on looking into the matter, had thought that this question appeared at first sight to merit the attention of the Commission and he had communicated the petition to the French Government and to M. Beau.

No reply had been received from the French Government, though the period of six months allowed for such a reply had expired. A mandatory Power was not obliged to reply in such cases if it had no observations to make.

The CHAIRMAN suggested that M. Duchêne might be asked whether he had any information to give the Commission on this subject. If M. Duchêne had no information he would have time before the end of the session to ask his Government for instructions and to inform the Commission of their tenor.

The Commission adopted this suggestion.

FIFTH MEETING (Private)

held at Geneva on Monday, July 23rd, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar.

130. Examination of the Reports on the Administration of French Cameroons and French Togoland in the presence of M. Duchêne.

Moral, Social and Material Welfare.

Mme. Bugge-Wicksell asked whether the next report on the Cameroons might contain a chapter describing the life of the natives in the villages.

M. Duchêne replied that he could include in one of its chapters general information on this point.

The Chairman thanked M. Duchêne and said that information on this subject could not fail to increase the interest of the report.

Public Finance.

The Chairman asked that the general statement of receipts and expenditure might be presented in such a way that it would be easy to form a general idea of the finances of the territory as a whole and that the statement should contain the figures for different preceding years in order that a comparison might be possible. This was a request which would be addressed to all the mandatory Powers. It would be convenient for the complete budgets of the mandated territories to be attached to the reports of the mandatory Powers.

He drew attention to the efforts made by the French Government to develop the railways of the territory. As local resources did not suffice, a loan was contemplated, which the French Parliament was asked to guarantee. This policy raised a grave question of principle. It might be asked how the service of the loan would be assured in the event of the Customs dues of the mandated territory being insufficient and how the interests of the French taxpayer would be reconciled with the principle of mandates.

M. Duchêne said that no request had been made for the budgets of the mandated territories, but they were at the disposal of the Commission. Since the Commission had just expressed such a request through its Chairman, copies of the budgets would henceforth be sent to the members of the Commission at the same time as the reports. Further, the statement of expenditure and receipts would be presented in a form which would give satisfaction to the desire expressed by the Chairman.

As regarded the scheme for a loan of 25 million francs submitted to the French Parliament and of which the exact figure would be fixed according to the assets offered by the territory, if the territory of the Cameroons were left to contract this loan on its own responsibility, it could only do so at an unfavourable rate of interest, whereas, if the French Government guaranteed the loan, the interest would be considerably less. A report favourable to the scheme had been tabled in the Chamber of Deputies, and a decision would be reached on the reopening of Parliament.

M. Orts said that this was the first example of a loan issued by a territory under mandate. He asked whether, according to the scheme, the loan was guaranteed by a mortgage on the property situated in the mandated territory, for example, on the railway to be constructed.

M. Duchêne replied that the French State was taking no special security. If for any reason the Cameroons were unable to ensure the service of the loan, the French State would do so instead; such was the meaning of the guarantee.

The Chairman quoted the passage in the report on the Cameroons (page 89) in which it was stated that the yield of the Customs duties would be earmarked for the payment of the annual interest up to the limit of the amount obtained. If the yield of the Customs duties should prove to be insufficient, the French State would pay the difference. It might be asked whether the

fact of having guaranteed the loan would not confer rights on the mandatory Power in respect of the railways which were the result of the loan. On the other hand, the proprietary rights of the railways ought to belong always to the territory of the Cameroons in order to safeguard the future of the mandatory system.

M. DUCHÊNE thought that the French State would be obliged to remember, if necessary, the sacrifices which it had agreed to make.

M. ORTS paid a tribute to the French Government, which, in bringing forward its scheme for a loan, had given proof of its confidence in the mandatory system and in the future of the Cameroons. In order to develop their economic equipment, the mandated territories required financial help from abroad ; this assistance should be given by the mandatory Power, but the problem was made difficult because the mandatory Power could not, in order to guarantee the loans which it made, mortgage the mandated territory, as this would be contrary to the spirit of the mandate system.

M. DUCHÊNE said that the scheme for a loan had been reported on favourably and that the French Parliament would have to consider a novel question. If the Parliament decided to proceed with the scheme, it would show its confidence in the future of the mandatory system. The mandated territory was a third party considered in relation to the central authority in the same way as a colony. A State did not always take security; it showed itself more or less generous according to circumstances, and the French State would never forget the sacrifices which it had made.

The mandatory system, with the stipulations which it includes, practically leaves to the mandatory Power only the burdens of administration without any special and corresponding advantage. If, in addition, the mandatory Power had to pledge its own finances, it would indeed be obliged to recall, on occasion, the expenses which it had incurred.

M. ORTS said that there was already therefore a credit in favour of the mandatory Powers and at the charge of the mandated territory — a credit which would increase.

The CHAIRMAN thought it was necessary to distinguish the question of budgetary deficits, which was a general question, and the question of the loans for the railways, or for other public works which involved a responsibility which was precise and limited. As regarded the general question, the State accepting a mandate knew in advance that there were advantages and disadvantages, and that a civilising mission could not be undertaken without certain risks and charges. As regarded the question of the railways, it might be asked whether the Permanent Mandates Commission, which was responsible to the League of Nations, should not satisfy itself that the territories placed under mandate remained free from any kind of mortgage. Perhaps the Permanent Mandates Commission might ask the French Government to communicate to the Commission full details of its scheme for this loan. This was a general question and did not arise simply in the Cameroons.

M. d'ANDRADE said he agreed with the Chairman. Bad administration might result in diminishing the revenues of the territories under mandate. As a consequence, the mandatory Power could increase its advances or guarantee loans, and the territory would always be in a position of dependence, which was contrary to the letter and the spirit of the Covenant.

Sir F. LUGARD pointed out that the fact that sums advanced took the form of a loan *ipso facto* placed the territory under a definite debt to the Mandatory or involved the hypothecation as security of railways or other works. The British Government had provided large sums amounting to millions sterling for several of the countries for which it held mandates, not as loans, but as free gifts. Other Governments had done the same. Since, however, the mandate was, in theory, revocable, this fact might operate (as had been pointed out by the French Minister of the Colonies) as a check on the generosity of the Mandatory. The Chairman had truly and well said that a civilising mission could not be undertaken without incurring risks and charges. Such risks might perhaps be minimised if there could be an assurance that, in the remote possibility of the transfer of a mandate, the transferee would become responsible for a portion at least of the sums advanced by present Mandatories.

M. DUCHÊNE said he was unable to give an opinion in favour of communicating to the League of Nations the Bill which had been presented to the French Parliament. The French Government acted as mandatory Power without resorting to Parliament, but when a question affecting the finances of the French State arose, the Parliament was the final authority, and it could not accept an outside control to be placed over it.

The CHAIRMAN thought that it was for the Governments of the mandatory Powers to maintain their relations with their Parliaments within the limits of the mandates system. The Mandates Commission only knew the mandatory Powers and not the Parliaments.

M. ORTS did not think that the French Government could be asked to communicate a scheme which was before the French Parliament. The Permanent Mandates Commission was entrusted with the duties of supervision. It should express an opinion concerning acts and actual facts but not concerning schemes and proposals.

M. RAPPARD concluded from these observations that it was necessary to form a clear idea upon this question without delay. The Permanent Mandates Commission could not ask Governments to obtain authority from the Commission to issue loans or to take security. On the other hand, the League of Nations could not be placed in the position of having to accept an accomplished fact. It was necessary that certain principles should be settled once and for all in order that the Governments might know how they stood.

M. ORTS recognised the advantage of fixing principles but reminded the Commission that in the particular case France was not taking any security.

It was decided that the question should be made the subject of special examination during the session.

Demographic Statistics.

Mr. GRIMSHAW pointed out that the report on the Camerons for the year 1921 (page 84) referred to very severe penalties for infractions of the provisions relating to emigration. The report for the year 1922 did not reproduce the order which regulated emigration from the Cameroons for natives born in the district, but the order appeared to be still in force. Why were such severe provisions necessary ?

M. DUCHÊNE read a passage in the report for the year 1922, which explained the reasons for the provisions in force. It was, above all, desired to protect women against illicit recruiting and against the manœuvres of those engaged in traffic. The next report would specify the cases to which the order in question applied.

The Right of Petition.

The CHAIRMAN reminded the Commission of the procedure prescribed for dealing with petitions. The Chairman forwarded to the Governments interested the petitions which he thought merited consideration by the Commission. He would like to know whether the French Government had any observations to make on the subject of the request which had been presented.

M. DUCHÊNE said that he would be able to reply at the end of the session when the plenary meetings were held.

131. EXAMINATION OF THE REPORT ON FRENCH TOGOLAND IN THE PRESENCE OF M. DUCHÊNE.

Slavery.

Mr. GRIMSHAW observed that in the report on Togoland for 1922 the conditions attaching to emancipation had disappeared.

M. DUCHÊNE said that emancipation was conferred without conditions but one of the first results of emancipation was the payment of taxes.

Sir F. LUGARD asked whether the adoption of children was permitted in Togoland and the Cameroons and whether there had been any need to issue regulations or to institute annual inspections in order to combat this indirect means of introducing slavery.

M. DUCHÊNE said that the question had not yet arisen in Togoland or in the Cameroons, but he would draw the attention of the authorities to this point, and measures would be taken if it should be necessary.

Labour.

Mr. GRIMSHAW asked:

(1) Whether the next report might contain details as to the two systems in force, namely, the system of individual or family plantations and of industrial or commercial enterprises.
(2) Whether the period of two years contemplated for the duration of engagements by contract was not too long (page 83 of the report).
(3) What was the significance of the words "durée du travail" (hours of labour) in paragraph 5 of Article 5 of the Decree (page 83 of the report), in view of the fact that on page 6 of the same report it was stated that it was not at present possible to regulate working hours.
(4) Whether the next report might contain details on the provisions to be inserted in labour contracts in the interests of the health and securityof the workers (page 83 of the report).
(5) Whether the next report might contain details on the working of the arbitration councils for native labour, and particularly as to the value of native members on these councils and the method by which they were chosen.

(6) Whether it was not necessary to provide against cases of breach of contract by the employer under sections 2 and 3 of the Decree (pages 83 and 84).

(7) Whether the employer had any disciplinary powers.

(8) Whether the transfer of natives from the region of Sokodé to the region of Agou had had serious effects on the health of the employees.

M. DUCHÊNE replied:

(1) Account would be taken in the next report of this request. The two systems existed side by side.

(2) The period of two years must be considered as a maximum, which was rarely applied. The question would be considered whether this period might be shortened.

(3) The labour contract which was mentioned in the Decree of December 29th, 1922, was a specimen standard contract, but it was specified on page 6 of the report (the drafting of which was begun at the beginning of 1923) that it was not at present possible to adopt the eight-hour day "systematically".

(4) The next report might contain the details desired. It had not yet been possible to give these details owing to the recent date of the decree.

(5) The next report might contain these details ; arbitration councils had given excellent results, particularly in Madagascar.

(6) The most frequent case was that of the repudiation of the contract by the employee. In practice, as labour was scarce, it was hardly probable that an employer would break a contract drafted in due and proper form.

(7) The powers of the employer were strictly limited by the Decree.

(8) No serious consequences had been noticed.

Sir F. LUGARD asked whether pressure was ever put upon the natives to induce them to work in this or that enterprise.

M. DUCHÊNE replied that there was never any resort to coercion for the recruiting of labour and that no distinction was drawn between different enterprises.

Mr. GRIMSHAW asked:

(1) Why were the provisions relating to emigration so severe ?

(2) What was the exact significance of the words "forced labour" ?

(3) Of what character were the native local labour organisations mentioned on page 35 of the report ?

(4) Might the next report contain details on the part played by the natives in the commissions set up for the organisation of land tenure, the reform of native justice, and the regulation of labour ?

(5) Why was it stated on page 62 of the report that the native was generally painstaking and industrious, whereas on page 6 it was said that he was like a grown-up child and almost always lazy ? Did this mean that the native was painstaking and industrious when he was working on his own account ? There would in this case be a reason for developing individual or family plantations.

M. DUCHÊNE replied:

(1) These provisions were designed to hinder the practices of recruiting agents.

(2) Forced labour under one form or another existed in all legislative systems. Its abuse began when the period of the labour was excessive or when it was not employed upon a public service of general interest. In no case could a private firm force the natives to work, even for payment.

(3) These were not trades unions, but simply service branches or sections.

(4) This request would be noted.

(5) There was no contradiction between the passages in question. It was possible to educate the native, to make him interested in his work, and to obtain from him good services.

132. DISPOSAL OF EX-ENEMY ESTATES IN THE MANDATED TERRITORIES.

The CHAIRMAN communicated to the members of the Commission the note which Sir F. Lugard had been asked to draft during the preceding meeting (Annex 7).

133. REVISION OF THE QUESTIONNAIRE.

The CHAIRMAN reminded the Commission that a Sub-Committee of three members had undertaken to revise the questionnaire which was intended to facilitate the preparation of the annual reports of the mandatory Powers. He asked the members of the Commission to communicate their suggestions to the Sub-Committee.

SIXTH MEETING (Private)

held at Geneva on Monday, July 23rd, 1923, at 3.30 p.m.

Present: All the members of the Commission except Count de Ballobar.

134. Examination of the Report on the Administration of French Togoland in the presence of M. Duchêne *(continued)*.

Arms and Munitions.

M. Duchêne, replying to a question of Sir F. Lugard, said that, though the Convention of St. Germain had not been ratified by all the Powers, it was strictly applied in the territory. Individual licences were required for all kinds of arms and ammunition.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. Lugard reminded the Commission that it had been agreed that he should prepare a draft recommendation on this question after consultation with M. Beau and M. Duchêne. The draft was ready whenever M. Beau and M. Duchêne should find it convenient to discuss it.

M. Duchêne, replying to a question of Sir F. Lugard, said that he did not believe that Indian hemp or hashish was smoked in Togoland, nor even that they could be smoked there; measures had been taken in respect of every kind of drug.

Liberty of Conscience.

Sir F. Lugard asked whether any difficulties had arisen owing to the activity of Christian missions in the districts under Mahommedan influence, particularly in the north, where, it seemed, there were powerful sultans. Had it been necessary to impose restrictions on the activity of these missions, since the Moslems considered that, if the Government sanctioned the activities of the Christian missions, it would be a breach of the pledge to respect their religion ?

M. Duchêne replied that nothing similar had happened in Togoland to his knowledge. Moreover, in Togoland the Christian missions exercised their activity chiefly near the coast. The Moslem element was not very important. There were persons under Moslem influence, but they were lukewarm. Up to the present, at least, no difficulty had arisen on this subject.

M. Beau asked whether, conversely, Moslem propaganda existed.

M. Duchêne said that Moslem propaganda existed but these manifestations were not very striking. Islam was propagated in West Africa by means of conversation. Those who spread the Moslem religion were Moslems like other Moslems, who lived the life of the village and gradually spread a personal influence.

Military Clauses.

No observations.

Economic Equality.

M. Orts reminded the Commission of what he had said at the fourth meeting on the Customs union with Dahomey.

Education, Public Health, etc.

No observations.

Land Tenure.

M. van REES said he had not a single observation to make on this subject concerning the report on Togoland. It was the most complete of all the reports, though the report on the Cameroons also deserved high praise.

M. DUCHÊNE thanked M. van Rees and expressed the hope that next year the report on the Cameroons would merit a similar compliment.

Public Finance.

The CHAIRMAN pointed out that there was a credit balance in the budget for the financial year 1920, *i.e.*, since the separation of the budgets. A portion of the balance had been invested in French Government securities, and an Order of September 20th, 1922, had authorised the investment of a sum of 670,410 francs from the reserve funds of the budget in bonds for national defence. Two questions arose: (*a*) Should the local budget always show a credit balance, and did this balance arise from the fact that insufficient money was spent or from the fact that too high a taxation was levied ? (*b*) Moreover, if it were a principle of good administration to invest the budget surplus productively, should not this investment be always available, that is to say, should it not be capable of being realised without any risk of loss ?

Finally, it appeared that public works were to be undertaken on borrowed funds. It would be well to repeat what had been said concerning the loans issued for the Cameroons.

M. DUCHÊNE said that these various questions arose for all the Governments administering territories under mandate. It was essentially a question of degree. It was clearly a mark of good administration to have a surplus of receipts over expenditure, but this surplus must not arise from excessive taxation. It was necessary to be able to constitute a reserve fund in anticipation of the bad years which might succeed the good years, especially in tropical countries. It was necessary to provide considerable receipts for the development of the economic equipment of the territory. It should, of course, be possible to realise this reserve fund. A distinction had accordingly been made between the portion of the surplus which was immediately available in case of urgency and a portion appreciably less which was relatively tied up and clearly subject to the conditions attaching to any investment.

The CHAIRMAN thanked M. Duchêne for his explanation. The reason for his observation was the high ratio of the surplus as compared with a small budget of about 3½ million francs.

M. BEAU insisted on the danger of setting on one side too considerable sums as reserve funds. These ought to be intended for the essential purpose of forming an emergency fund for bad years and of giving elasticity to local budgets. The programmes of public works elaborated by the Central Government for its possessions included chiefly considerable undertakings, such as railways, ports, etc., undertakings which were indisputably of utility but the execution of which would take time and the yield from which was uncertain. It was very important that as large a proportion as possible of the funds of the budget should be devoted to expenditure which would be immediately profitable to the natives. It was extremely important, and one of the principals concerns the Commission that the natives should be given equivalent advantages for the taxes paid by them in the shape of expenditure on agricultural improvements, public health, on defence against tropical diseases, on education, above all, agricultural and professional instruction, with an encouragement for cultivation, etc.

M. DUCHÊNE thanked the Chairman and M. Beau for their interesting observations, which would doubtless assist the authorities. As he himself had said, this was a question of degree. There was no objection to providing against future expenditure on the understanding that such provision did not involve devoting to other purposes funds which should be used for the immediate welfare of the country whence they were derived. The tendency to which M. Beau had drawn attention was now considerably less marked, and, in the case of loans contracted for the execution of a programme of public works, it had been the practice for the last ten years to devote a certain part of these loans to the immediate welfare of the population in the shape of medical assistance to the natives, hospitals, dispensaries and schools — above all, schools for training in the professions and crafts. He would see that the observations which had been made by members of the Commission were given full consideration.

Following a question of the CHAIRMAN, *it was agreed that M. Duchêne would indicate to the Commission later the item to the credit of which the interest on the credit balances of the last two years was placed.*

Demographic Statistics.

M. YANAGHITA said that very severe measures had been taken against emigration into the Cameroons, but it did not appear that any measures to control this movement of population had been taken in Togoland beyond the levying of an emigration tax. Were there special reasons for this difference in the regulations ?

M. DUCHÊNE said that the administrations of the two territories were distinct and that each of the two Commissioners of the Republic acted within the full limits of his powers. In the Cameroons, as had been said, it had been desired to take precautionary measures against the possible revival of certain practices which had been common several years ago and which, in certain parts of West Africa, took the form of veritable levies upon certain classes of the population directed from abroad, to the detriment of the territory and of the natives themselves, who often had great difficulty in returning to the country. At the present moment there was no actual danger of such practices in Togoland, and less attention had been given to the matter. The position in the Cameroons was for the moment not in any way alarming.

M. YANAGHITA said that, according to the British report on Togoland, the natives emigrated in order to avoid paying taxes.

M. DUCHÊNE did not think that this was usually the case.

M. RAPPARD observed that this was one of the rare examples of a question which gained by being discussed in the presence of the two accredited representatives concerned. On the one hand, the French Government made efforts to hinder emigration from French Togoland to British Togoland. On the other hand, the English authorities were inconvenienced by the arrival of emigrants from French Togoland. This sufficiently rare case of a question which directly interested two neighbouring territories under mandate might perhaps be made the subject of examination at a plenary meeting.

M. DUCHÊNE thought that the question would be limited in the end to formal declarations. To-day it happened that this movement occurred on one side of the frontier. Six months later it might happen on the other side of the frontier. These were emigrations and immigrations of the moment.

The CHAIRMAN, in conclusion, asked M. Duchêne if he would be good enough to give more detailed information on this subject later on. The same request would be made to the British accredited representative.

Administrative Organisation.

Sir F. LUGARD pointed out that, according to the report, native assessors sat on the tribunals of districts or sub-divisions and the tribunal of appeal or the "chambre d'homologation" Were these assessors chosen only from among natives who could speak French, *viz.*, the educated class, or also from among the notables who alone really represented the tribes of the interior ?

M. DUCHÊNE explained that it was necessary to take into account the difference of degree between these two jurisdictions. In the court known as the "chambre d'homologation", which was a kind of court of revision held at the principal town, it was possible to choose natives who were relatively educated, with a knowledge of either French or German or English. For the jurisdiction of the second degree, on the contrary, natives were chosen who happened to be on the spot, many of whom could neither read nor write but whose position enabled them to be sufficiently well acquainted with native questions.

Sir F. LUGARD pointed out that the higher tribunals were presided over by Europeans, but village tribunals were also spoken of which worked without the presence of Europeans. He would be happy to find in the next report details concerning this purely native jurisdiction and concerning the powers that it exercised and the extent to which it was used.

M. DUCHÊNE said that this request would be carried out.

M. DUCHÊNE, replying to M. van REES, said that there was in effect a preliminary jurisdiction which the French authorities knew to exist, and which they even encouraged, namely, the authority of the chief of the village. The decisions given by him were always considered as subject to appeal. This jurisdiction was a kind of procedure of conciliation.

Sir F. LUGARD asked whether, in the higher tribunals presided over by French officials, the courts would legally take account of native law and custom, as in the British territories, or whether trials were conducted rigidly under French law.

M. DUCHÊNE explained that in this respect there was a fundamental distinction between the two kinds of jurisdiction. The first jurisdiction recognised and applied only the French law. In the lower courts, on the contrary, native customary law was applied. Provision was made against a possible conflict of custom. There might, for example, be a conflict between the law of the Koran and practices based on fetichism, for example, in the matter of marriage. These were questions of some delicacy. Moreover, a native might always claim the French law and be judged accordingly. Finally, when in the lower jurisdiction native customary law was applied, the "chambre d'homologation" might usefully intervene if the native customs should be too severely primitive.

The CHAIRMAN, on behalf of the Commission, thanked M. Duchêne for having replied to the numerous questions put to him with an unwearying courtesy which was only equalled by his entire competence.

M. DUCHÊNE said that it was for him to thank the Commission for the kind attention with which it had always received explanations which were often extremely difficult.

M. Duchêne withdrew.

135. Programme of Work of the Commission.

On the invitation of the Chairman, and after certain observations made by M. van Rees, M. Rappard enumerated the principal general questions which the Commission had to examine apart from the annual reports of the other mandatory Powers:

Ex-enemy estates.
Most-favoured-nation clause.
Possibility of introducing uniformity in the Customs tariff for the liquor traffic in adjacent territories.
Public loans.
Revision of the questionnaire.
Revision of the Rules of Procedure.
Agenda of the plenary meeting.
Finally, questions relating to the various memoranda presented by the members of the Commission.

The Chairman pointed out that the Commission might on several occasions find itself confronted with questions of principle with which it would have to deal. He emphasised the necessity of completing betimes this heavy agenda.

136. Disposal of Ex-Enemy Estates in the Mandated Territories.

On the invitation of the Chairman, M. Rappard read a note presented by Sir F. Lugard (Annex 7). A certain number of corrections were made in the French translation of this note.

The Chairman examined point by point the four questions with which the note of Sir F. Lugard concluded.

(1) The question mentioned in the last sentence of paragraph 1 did not seem to be within the competence of the Mandates Commission but rather of the Reparation Commission.
(2) This question should be modified as follows: If the lands are let on lease to private individuals, what would be their rights as regarded the property after the final liquidation of reparations ?
(3) Did not this point fall within the competence of the Reparation Commission ?
(4) This question should be put to the mandatory Powers ?

M. van Rees associated himself with the views of the Chairman.

M. Beau said that the Mandates Commission would be interested in the case in which revenue was improperly taken from the local budget.

Sir F. Lugard thought that the point contained in the last question was the principal one which it devolved upon this Commission to consider. The Commission had the right to see that the local treasury received all the sums which were due to it.

M. Orts thought that the Commission was unanimous in recognising that there was nothing which should be withdrawn from the first portion of the note of Sir F. Lugard, who had confined himself to a statement of fact : namely, that private individuals hesitated to invest capital in a mandated territory because they considered, rightly or wrongly, that they were not all of them satisfied as to the value of the deed of property which would be accorded to them. The question was whether Article 256 of the Treaty applied to mandated territories.

M. Rappard thought that the article referred only to the property of the former German State but not to the property of individuals.

The Chairman said that the discussion at this stage might be summarised as follows:

1. Was a territory under mandate regarded differently in the Treaty of Versailles from other colonial territories in respect of reparations ?
2. Were the principles admitted for any kind of colony applicable to a territory under mandate ?
3. Had any land, or public or private property, belonging to ex-enemies been liquidated in territories under mandate ?
4. What had become of the proceeds of this liquidation ?

The Commission could only put these questions without giving its own opinion in the matter. If the Commission received a reply to the effect that the proceeds of liquidation should be credited to the local budget it would then have to verify the execution of this provision. M. Rappard would consult the Legal Section of the Secretariat on this point.

M. Orts agreed to the procedure proposed by the Chairman.

M. ORTS, during an exchange of views with Sir F. LUGARD, explained why it was advisable to refrain from putting the fourth question, which referred to the case of New Zealand. New Zealand had acquired the property in question as the Government of New Zealand and not as mandatory Power. To ask whether New Zealand had paid the taxes would be to admit that a State might become proprietor in the territories which it administered under mandate — a conception contrary to the principle previously established by the Commission. If no one were found to take over the property by auction, the property which was not sold would remain placed to the account of the mandatory Power acting in that capacity. According to the expression used by M. van Rees, this property was included in the "domain of the territory", but it ought not to constitute the domain proper of the Power exercising the mandate.

M. RAPPARD suggested that the question should be put to the Legal Section in the following form: Were there, in the Treaty of Versailles, provisions defining the rights and obligations of the mandatory Powers as regards the liquidation of ex-enemy property ?

Even if the reply were lacking in precision, the Commission would at least have a basis on which to bring the question before the Council.

M. ORTS anticipated that ultimately there might be opposition between the theory of the Reparation Commission and that of the Permanent Mandates Commission if the latter felt itself obliged to contend that the sequestered property should be liquidated for the benefit of the mandated territory.

Sir F. LUGARD said that he believed that this was not the view of the British Government and asked whether it would be advisable to put a further question: What are the obligations of the Mandates Commission as regards the liquidation of ex-enemy property? He added that he thought that the article bearing on the question was Article 297 of the Treaty and not the article read by M. Rappard (Article 256).

The CHAIRMAN thought that it would be sufficient to put the question in the form proposed by M. Rappard. There did not seem to be such a definition.

It was agreed that the question should be put to the Legal Section in this form.

137. PRELIMINARY EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF BRITISH TOGOLAND.

M. ORTS pointed out that, according to the terms of the report, this territory had been united to the Gold Coast and was therefore henceforth an integral part of a Crown Colony.

M. RAPPARD reminded the Commission that, in accordance with the discussion which took place before the Milner Commission, the special measure taken in regard to Togoland was in conformity with the text of the British mandate (Article 9).

M. BEAU observed that this measure was explained by the small area of the territory concerned.

M. ORTS recognised that the British Government could hardly have acted otherwise, but the result was that the control of the Commission was thereby rendered somewhat difficult.

M. RAPPARD suggested that, in this connection, a question might have to be raised: in view of the fact that British Togoland was administered as an integral part of the Gold Coast, what measures were taken in order to enable the Commission to exercise its supervision ?

The CHAIRMAN, supported by M. van REES, said that the report was not destined for the Council but for the British Government. Was it not, however, the duty of a mandatory Power to submit an annual report to the Council ? The report before the Commission was a report by the Governor to his Central Government, whilst it was important that the Council and the Commission should receive the declarations of the Government, which might or might not be of the same opinion as the Governor.

M. RAPPARD reminded the Commission that a similar discussion had taken place last year. There might be here a subject for a recommendation on the part of the Commission.

The CHAIRMAN calls attention to the fact that the budget of the territory was not separately shown, in spite of the request made by the Commission.

It was agreed that, when the accredited representative of the British Empire was heard, the Commission should follow the order of the present discussion.

Slavery.

Mr. GRIMSHAW drew attention to the brevity and lack of clearness of the report under this heading:

Paragraph 14. The reference to the Abolition Act of 1807 was doubtless a printer's error. Were the German decrees still in force ?

Paragraph 15. This contradicted paragraph 14, since it indicated the conditions to be fulfilled by the slave in order to recover his liberty.

Paragraph 16. What had the situation been since the end of the German occupation ?
Paragraph 17. Explanations were necessary.
Paragraph 18. What breaches of the regulations were involved ?

Labour.

Mr. GRIMSHAW thought that this chapter, like the previous chapter, would need further detailed explanations, particularly as regarded the resolutions of the Labour Conference, the recruiting and control of labour, etc.

Following an exchange of views between the CHAIRMAN, Sir F. LUGARD, M. van REES and M. RAPPARD, *it was agreed that, in order to facilitate the work of the Commission and without establishing a really new procedure, the members might, if necessary, by private correspondence, suggest to the representative the points on which it was probable that information would be required.*

Arms Traffic.

No observations.

Trade in and Manufacture of Alcohol and Dangerous Drugs.

Details would be requested particularly in regard to paragraphs 32, 35 and 36 *in fine.*

Liberty of Conscience and Military Clauses.

No observations.

Economic Equality.

M. ORTS pointed out that this chapter contained satisfactory declarations, which were, moreover, confirmed by the text which was annexed.

Education.

Mme. BUGGE-WICKSELL would ask for information on the education programmes of the mission schools.

Public Health.

M. YANAGHITA thought that the price for medical attendance was somewhat high. A shilling was equivalent to a day's work (paragraph 74).

Mme. BUGGE-WICKSELL, referring to paragraph 79, said that she had been asked to raise the question of the application of the Convention on the Traffic in Women to this territory. Mr. Ormsby-Gore had said in Parliament that there was no need to apply this Convention ; on the face of it, this ought to be the most satisfactory explanation that could be given ; but it was impossible to read the paragraph on prostitution (page 17 of the report) without deep misgivings, not so much as to traffic as to the general conditions of the sexual relations in this territory. This whole question ought to the raised, but for the moment she was quite unable to make any suggestions as to what could be done.

Land Tenure.

M. van REES observed that the order attached as an annex (page 40 of the report) had been amended in 1913, but it had not been possible to have a copy of it as amended. It seemed that there were no domain lands. It was said that there were two administrators in the territory, the other officials belonging to the Gold Coast. There was no information in regard to the administration of the territory, the working of the public services, land tenure, the regulations governing the domain. Finally, it was stated on page 19 that native justice was regulated by a German Order reproduced in the previous report (page 25). According to this Order, justice was administered exclusively by the native chiefs, except for a right of appeal from the decisions of the head chief to the district political officer. Neither the Order nor the report mentioned any collaboration with the British authorities. Was it to be inferred that the British authorities played no active part in the administration of native justice ?

Public Finance.

The CHAIRMAN said that further details would be necessary. On page 44 the currency used had not been indicated.

SEVENTH MEETING (Private)

held at Geneva on Tuesday, July 24th, 1923, at 10 a.m.

Present: All the members of the Commission except Count de Ballobar.

138. Programme of Meetings.

M. Rappard communicated to the members of the Commission the replies which he had received from the representatives of the mandatory Powers who would be heard by the Commission. It appeared from these replies, though some had yet to be received, that it would be rather difficult to settle at once a definite programme and to ascertain when the accredited representatives of the mandatory Powers would arrive at Geneva.

Following an exchange of views, *it was decided to fix the provisional programme as follows:*

July 28th, M. Matsuda.
July 30th, M. Forthomme.
July 31st and August 1st, Mr. Ormsby-Gore and Sir Edgar Walton.
August 3rd and August 4th, Sir James Allen and Sir Joseph Cook.

The Chairman said that the Commission would continue its preliminary examination of the reports, and on this point he asked his colleagues not to enter too much into detail but to keep as far as possible to broad lines and questions of principle. The Director of the Mandates Section had prepared a list of general questions based on the debates which had already taken place. Each member of the Commission might make suggestions for the completion of this list. The report on the Bondelzwarts rebellion would particularly engage the attention of the Commission. As regarded the revision of the questionnaire which the Commission had decided to undertake, it seemed advisable to complete the questionnaire without changing it too radically.

M. Orts emphasised the desirability of giving priority to general questions over the preliminary examination of the reports. If there were not sufficient time for the preliminary examination, it would not be a serious matter, as the full and detailed examination of the reports would be made in the presence of the representatives of the mandatory Powers.

The Commission approved the suggestions of the Chairman and the programme which he had outlined.

139 Preliminary Examination of the Report on the Administration of the British Cameroons.

Administrative Questions.

M. Orts observed that the system of administration introduced into the British Cameroons had resulted in dividing up the territories under mandate into three administrative entities. As there was no map, it was rather difficult to picture the boundaries of these entities. According to the terms of the mandate, the British Government was at liberty to join the territory of the Cameroons to Nigeria in order to make it an integral part of the colony from the administrative point of view. But it was important that the authors of the report should take care that, as a result of the union of the districts of the mandated territory with the neighbouring districts of Nigeria, the task of supervision by the Mandates Commission was not made too difficult.

M. Orts noted that the report mentioned (page 11) a difficulty as regarded the tracing of the frontier between the British and French Cameroons.

There was no corresponding reference in the French report on this point.

M. BEAU believed that negotiations were in progress on this point between the French and British Governments.

On the proposal of the CHAIRMAN, *the Commission decided to recommend that the next report should be drafted with all necessary clearness, and according to the questionnaire: it would draw the attention of the French representative to the passage in the British report which dealt with the frontier question.*

Slavery.

Mr. GRIMSHAW drew attention to one consequence of indirect government: according to English law, slavery was illegal, whereas slavery was authorised by Moslem law. It was the Moslem law, however, which was applied (page 7 of the report).

Sir F. LUGARD observed that the fundamental law of the State overruled the law of the Koran.

Mr. GRIMSHAW said he would like to have details with regard to the traffic in slaves in certain regions mentioned in the report. Of what nationality were the traders, and what was the destination of the slaves ?

Sir F. LUGARD proposed to draw the attention of the representative of France to the traffic in slaves which had been noted on the frontier.

Labour.

Mr. GRIMSHAW said he would like to have details on the recruiting and the conditions of labour of the 10,000 to 20,000 workers mentioned on page 36 of the report.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD observed that prohibition of the liquor traffic in areas to which spirits had not penetrated was required by the Brussels Act, but there was no mention in the report that the northern districts had been included in the prohibition zone.

M. BEAU reminded the Commission that M. Duchêne had said that the Convention of St. Germain was applied in its entirety.

Economic Equality.

M. ORTS thought that economic equality was assured. He drew attention to the fact that imports of coffee and cocoa coming from the territory under mandate enjoyed, upon entering the United Kingdom, the same favourable tariff as products from British colonies and protectorates. Here was an example of a country which in certain respects assimilated to the position of its own colonies a territory under mandate for its greater advantage.

Education.

Mme. BUGGE-WICKSELL observed that the report declared that the natives and their leaders showed great interest in education. That interest, however, was illustrated by *one* youth attending the Training College at Katsina and 14 boys frequenting the provincial school at Maiduguri. In the Yola district 11 boys were instructed in the Yola provincial school. This was all the information given as to the northern provinces. In the Cameroons province the situation was far better and the administration seemed to do what it could.

Land Tenure.

M. van REES asked whether it was intended to apply to the province of Dikwa the ordinance mentioned on page 9 of the report.

This ordinance declared that all lands were regarded as native lands under the control of the Governor for the common use and benefit of the natives. Almost the same declaration was to be found in the ordinance relating to the territory of Tanganyika, with this difference: that the native land was called public land. What was the exact significance of this provision of the ordinance ? Had all the lands been declared State domain, or had precisely the contrary been done ? That was to say, had the whole conception of domain been put on one side ? There was here a system of legislation quite different from the others.

Sir F. LUGARD explained the system of land tenure in the north of Nigeria, which he understood had been applied in Dikwa. Doubtless the British representative would be able to give full explanations to M. van Rees on this subject.

Public Finance.

The CHAIRMAN said that he would present his observations when the representative of the mandatory Power was heard. Generally speaking, the chapters relating to public finance were lacking in clearness and precision.

Public Health, etc.

M. RAPPARD observed that very little information was given, but this was perhaps due to the fact that the supplementary questionnaire had reached its destination too late to permit of the authors of the report taking it into account.

M. ORTS referred to paragraph 44 (page 42). In the Cameroons there were no measures dealing with ex-enemy subjects. They might enter the territory, and from the Customs point of view they were not, as in Togoland, subject to an exceptional regime. It would be interesting to know the reasons why it had been impossible to find persons to acquire ex-enemy property. The British representative should be questioned on this point.

140. PRELIMINARY EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF TANGANYIKA.

Slavery.

Mr. GRIMSHAW proposed to ask for supplementary explanations on the customs mentioned on page 12.

Labour.

Mr. GRIMSHAW said he would like to have supplementary information on conditions of labour, child labour, etc. (pages 9 and 10 of the report). As he was preparing a comparative study of the legislation on these matters, he would be happy if the texts of the laws could reach him before the communication of the next report.

Traffic in Arms and Ammunition. — Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD thought it would be more useful to know the quantity of arms and ammunitions existing in the country than to know the number of licences issued in any particular year (paragraph 50, page 21). It would be interesting, as he had already observed in regard to Togo, to know how imitation spirits were detected or defined.

Economic Equality.

M. ORTS said that the report made no mention of the subject. In fact, everything led one to believe that it existed.

Education.

Mme. BUGGE-WICKSELL said she would like to have details on the methods of education associated with village life mentioned in paragraph 63 (page 28)

Forestry.

Sir F. LUGARD said he would like to have details in regard to the private concessions mentioned under the heading of forestry (paragraph 54, page 25).

Land Tenure

M. van REES said he would again like to ask for explanations of the meaning of the words "public land" used in the ordinance. He reserved the right to put other questions when the representative of the mandatory Power was heard, and he remarked that the report did not give any information on the subject of native justice (paragraph 7, page 6). The previous report contained some details, which were, however, insuffic ent (pages 74 and 75).

Sir F. LUGARD pointed out that "public Land" were defined in the ordinance.

Public Finance.

The CHAIRMAN said that the report was incomplete and observed that more money was spent on police than on health or medical assistance.

M. ORTS thought it would be well for the budget to be more detailed. It would be very interesting, for example, to know the amount of the proceeds of the different native taxes. The yield from native taxes was the best criterion to enable one to judge of the efficiency of the colonial administration and to appreciate native policy.

Contrary to what had happened in the British Cameroons, it would be noted that in the Tanganyika territory persons had been found to acquire ex-enemy property. It would be interesting to know what had become of the proceeds of the sale of this property.

M. RAPPARD reminded the Commission that the draft law on land tenure for Tanganyika had been communicated confidentially to the members of the Commission. The act had since been promulgated, and there was no reason why the Commission should not take account of it in its discussions and, if necessary, in its report.

141. EXAMINATION OF THE REPORTS IN THE PRESENCE OF THE REPRESENTATIVES OF THE MANDATORY POWERS.

M. ORTS asked whether it would not be a good plan for the Secretariat to draw up a list of all the questions to be put to the representatives of the mandatory Powers. The Chairman could put these questions in the order in which they appeared on the list. The discussion would then be more methodical.

The CHAIRMAN said he was not personally opposed to this proposal, but it seemed to him that the method so far adopted had given good results. The distribution of the various subjects had given each member of the Commission a special competence in putting questions falling within his particular sphere.

M. RAPPARD reminded the Commission that, in accordance with its decision, he was having an extract made from the Minutes of the questions which seemed to call for the attention of the Commission when the representatives of the mandatory Powers were heard. It did not seem advisable to go further in this direction, for the reason indicated by the Chairman. If the new procedure proposed were adopted, the proceedings would resolve themselves into a dialogue between the Chairman and the successive representatives of the mandatory Powers. Finally, as the members of the Commission had been recommended to confine themselves to questions of principle in the preliminary examination of the reports, they had reserved the right to put questions directly to representatives of the mandatory Powers.

Mr. GRIMSHAW proposed a compromise: questions of principle might be put by the Chairman, and the various members of the Commission might then put questions of detail regarding the subjects in which they were specially interested.

Sir F. LUGARD said he agreed with the views expressed by the Chairman and M. Rappard.

The Commission decided to keep to the procedure followed at the meetings at which M. Duchêne had assisted.

142. PRELIMINARY EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF RUANDA-URUNDI.

The CHAIRMAN referred to the opening words of the report: "On behalf of the Belgian Government, I have the honour to present to the Council of the League of Nations", etc. From the point of view of form, this was the most correct of the reports.

Administrative Questions.

M. van REES said be would like to know what were the powers of the two Residents and of the Royal Commissioner, and from what law they derived their authority.

Slavery.

Mr. GRIMSHAW said he would like to have supplementary information on Chapter 2 of page 21 of the report. He noted that in applying Ordinance No. 115, eighteen slaves only had been registered.

These had been subsequently freed, whilst under the terms of the ordinance all slaves not registered became *ipso facto* free. Could it be concluded that there remained now no slaves in the area ?

M. RAPPARD asked what was the significance of registration. He did not see the use of this formality unless its object were to ensure compensation for the former masters.

M. ORTS said he was not able to explain the matter. The representative of the Belgian Government could be asked about it.

Sir F. LUGARD said that, in order to effect emancipation, the Government had declared that all who claimed rights over persons as slaves must register them within a definite period under penalty of forfeiture of those rights, *viz.*, all unregistered slaves would *ipso facto* be freed. Only 18 had been registered, and these had since been freed. If he was correct in his assumption, this meant the emancipation of all slaves. The justice of this method depended upon the publicity given to the decree, so that owners should be aware that they had to register.

Labour.

Mr. GRIMSHAW said be would like to have the text of Ordinance No. 100, which had already been mentioned the previous year (page 22 of the report).

He would like to have information on:

Corporal punishment;
Labour contracts, particularly contracts for three years, which seemed an excessively long period;
The transfer of natives from high regions to low regions;
The inspection of labour camps;
The obligations of the employer;
The representation of native workers before courts of justice.

Education.

Mme. BUGGE-WICKSELL said that the public education system seemed to be very little developed in these territories. This perhaps was a consequence of the method of indirect government. She reserved the right to ask for information on the general programme of education.

M. d'ANDRADE drew attention to the creation of a school of native medical assistants (page 24). This was a very useful initiative, for which the Belgian Government should be congratulated, particularly if it were accompanied by the prohibition of the practice of native sorcery, of which mention was made only in the report on Tanganyika territory.

M. YANAGHITA noted that native languages were employed in giving instruction.

Land Tenure.

M. van REES noted that the system of land tenure was not yet organised (page 25). The statement on page 13 that, in the case where native land was leased, rent was paid to the chiefs, called for comment.

Public Finance.

The CHAIRMAN thought that the budget was presented in a too summary manner. It was difficult to distinguish the expenditure which closely approached the sphere of the supervision of the League of Nations from other expenditure.

143. DISTRIBUTION OF THE ANNUAL REPORTS OF THE MANDATORY POWERS.

M. RAPPARD raised an administrative question. Regret had been expressed in various quarters that the annual reports of the mandatory Powers were not communicated to all the Members of the League of Nations. As the territories under mandate were administered in the name of the League of Nations, certain States were surprised at not having received a single annual report. According to the Rules of Procedure, the members of the Commission must receive the annual reports of the mandatory Powers directly, and the Secretariat received 20 copies. These 20 copies were sufficient for internal requirements and were at the disposal of the members of the Assembly. This did not seem to be an entirely satisfactory state of affairs.

Various suggestions had been made. It had been proposed that the mandatory Powers should address to the Secretariat not 20, but 100 or 200 copies of their reports, in order to allow the distribution of one copy to each Member of the League. It had also been proposed that the League of Nations should itself publish the reports of the mandatory Powers. It was possible for this publication to be effected in two ways. The less economical but more perfect method of publication would be for the Secretariat to reprint the reports and publish them as documents of the League. A more economical but less practical method would be to ask the mandatory Powers to publish their reports in a uniform size, which would enable them to be bound together in a single cover bearing the *imprimatur* of the League.

The advantage of the publication of the reports by the League was twofold. First, there was a constant demand for information on the mandatory system, and the reports of the mandatory Powers were the basis of the system. Secondly, the assembling together of all the reports would perhaps create, as had been observed, a spirit of happy emulation among the mandatory Powers. As it was possible that the question would be raised at the Assembly, it seemed advisable for the Commission to give its views.

The CHAIRMAN thought that it would be very useful to extend knowledge of work which was not very well known to the public.

M. BEAU did not think it was possible to ask all the Governments to publish their reports in a uniform size. On the contrary, it would seem possible to ask the mandatory Powers to increase the number of copies sent to the Secretariat. The publication of the reports by the League of Nations itself would involve excessive expenditure.

Sir F. LUGARD asked whether the cost of the publication of the reports by the League of Nations could be covered in part by the proceeds of the sales of the reports.

M. RAPPARD said that he had had great difficulty in maintaining on the budget of the Mandates Section the sum of 10,000 francs for the publications of the Section and of the Commission. He did not think that an increase of this item could be contemplated.

Following an exchange of views, *the Commission decided to revise the Rules of Procedure and to ask the mandatory Powers to send to the Secretariat* 100 *copies of their reports instead of* 20. *It further decided to recommend the Council to ask the mandatory Powers to send a copy of their reports to all the Members of the League.*

144. DATE OF THE SESSION OF THE MANDATES COMMISSION.

The CHAIRMAN proposed that the Commission should hold its annual session two or three weeks earlier, so that its report might be examined by the Council and forwarded by it in good time to the representatives of the States attending the Assembly.

M. van REES wondered whether the annual reports would arrive soon enough for the session to take place at an earlier date. He recalled the proposal made during the previous session by Mr. Ormsby-Gore, namely, that the Commission should hold two sessions a year, one at the end of May and the second later.

M. ORTS believed that, if the Commission insisted, the reports would be sent in sufficient time, and that the Commission might, if necessary, hold a second session in the autumn, in order to examine the reports which had arrived after the ordinary session.

Following an exchange of views, *the Commission, in view of the necessity of ensuring that its report should reach the representatives of the Governments attending the Assembly in good time, decided to fix the date of its annual session to open on June* 15*th and to ask the mandatory Powers to send their reports before May* 15*th.*

145. PLENARY MEETINGS OF THE COMMISSION AND PUBLICITY.

The CHAIRMAN enumerated the disadvantages of the plenary meeting provided for in the rules of procedure, disadvantages which had been proved by experience.

M. RAPPARD pointed out the advantages and disadvantages of plenary meetings. The great advantage of publicity was that it interested the public in the work of the League of Nations, and particularly in the question of the mandates, and that it created a favourable political atmosphere. The disadvantage of publicity was that the representatives of the mandatory Powers found themselves, so to speak, on their defence, which was a disagreeable situation.

Moreover, there was a legal objection to public discussions of the Commission. The Commission, in presenting its views publicly, had the appearance of presenting them not to the Council, for whom they were destined in the first instance, but to the public in general. This difficulty might be avoided and the legal objection overcome by giving to the last plenary meeting of the Commission the character of a fair and non-controversial examination, throwing into relief the services which the Mandates Commission might render to the mandatory Powers and the usefulness for them of the information presented to the Mandates Commission by the representatives of the other mandatory Powers.

A genuine discussion of one of the great questions raised by the system of mandates would keenly interest public opinion. The colonial reviews would not fail to speak of it—a fact which could not fail to increase the prestige of the Commission. Its annual session would thus become an event noted in all colonial circles.

Sir F. LUGARD feared that, if the ordinary meetings were open to the public, they would become much more formal and there would be a tendency to speak to the gallery.

M. van REES referred to the note on this question which he had addressed to the Director of the Mandates Section, after having noted the observations made by the representatives of the mandatory Powers to the Assembly and to M. Rappard personally. The procedure under discussion had not been imposed on the Commission. The Commission itself had introduced this practice into its Rules of Procedure. The Minutes of its first session, however, did not sufficiently explain the reasons for its decision. It was neither to the interests of the Commission nor to the interests of the mandatory Powers for the conclusions and proposals of a technical Commission intended for the Council to be made the subject of a public discussion before the Council had even been able to take note of them. The public meeting of August 7th, 1922, did not appear to have given satisfaction, either to the representatives of the mandatory Powers or to the Commission, or even to the public who were present. The three representatives who were present at this meeting had the appearance if not of persons who were accused at least of dependents. Such a position appeared inacceptable. Moreover, as the Commission had at its disposal only the annual reports of the mandatory Powers, and as it only had an imperfect knowledge of local conditions, it ran the risk of finding itself in a position of inferiority, which would not escape the notice of the public.

A third objection could no longer be overlooked. Last year, there were three representatives present. This year there were to be six; this meant that, if the Committee did not wish to incur the risk of the discussions being of no interest to the public, it would be necessary to have not one but probably several public meetings.

M. d'ANDRADE said he was not opposed to publicity, and reminded the Commission that there were precedents.

The CHAIRMAN, in view of the late hour, postponed the continuation of the discussion.

He communicated to the Commission a list of general questions prepared by the Secretariat and asked the members of the Commission to be so good as to examine and, if necessary, complete it.

EIGHTH MEETING (Private)

held at Geneva on Tuesday, July 24th, 1923, at 3.30 p.m.

Present: All the members of the Commission except the Count de Ballobar.

146. Plenary Meetings of the Commission and Publicity *(continued)*.

The Chairman explained that M. van Rees maintained his proposal to the effect that the plenary meeting should not be held in public but that, in his opinion, there would be less objection to hold the other meetings with the representatives in public.

In the Chairman's view, there was no objection to holding all the meetings in public provided it were understood that certain meetings might be declared private when questions arose which made it desirable to do so. The role of the Mandates Commission in the League of Nations was a civilising and philanthropic role, and its object was far removed from any desire to criticise or impede the action of the Powers. M. Orts had emphasised the fact that publicity for the meetings of the Commission would constitute in some degree a lack of respect for the Council, which would thus learn from the Press the views of the Commission, which would be presented, without doubt, in a more or less distorted form; there was here an objection which deserved to be considered.

M. d'Andrade said he was in favour of public meetings, except when the Chairman thought it necessary to hold them in private.

M. Yanaghita and Mme. Bugge-Wicksell expressed the same views as the Chairman.

M. Orts believed that, if the ordinary meetings of the Commission were to be public, its proceedings would certainly be paralysed. The execution of the work of the Commission required much tact ; it must avoid irritating the legitimate susceptibilities of the mandatory Powers over whose administration the Commission was required to watch.

It was unnecessary to quote examples, but everyone would agree that certain discussions which had taken place in the intimacy of private meetings would have caused some disturbance and called forth perhaps some immediate public reply if the Press had had an opportunity of hearing the echo. On the other hand, however independent the members of the Commission personally might be, however great their desire to be impartial, they might very naturally be unwilling to criticise publicly the actions of their national administration, although they would not hesitate, if necessary, to do so in a private meeting.

Up to the present, each member of the Commission had always expressed his opinion without reticence and with complete freedom. To make the discussions public would be to the detriment of the very purpose of the Commission. In practice, it would be very difficult to suspend a public meeting and to announce that the Commission would go into private session in view of the unexpected trend of the discussions.

Sir F. Lugard, as a new arrival in the Commission, said he could not express an opinion on the subject of the plenary meeting. As regarded ordinary meetings, he was of the same opinion as M. Orts, whose arguments he entirely endorsed. He was also rather attracted by the suggestion of M. Rappard concerning a discussion in public with the accredited representatives of the Powers on an agreed subject.

M. Beau emphasised the importance of the arguments brought forward by M. van Rees and M. Orts. Systematic publicity would endanger the sincerity of the discussions, not only of the questions put but of the replies which were made. If members spoke in public, there would no longer prevail the friendly atmosphere in which the Commission habitually worked. The public would take literally certain expressions which sometimes went further than the intention of the speakers. Between colleagues this would not have any grave importance, and the necessary corrections could be made in the Minutes. The presence of the public, however, would frequently tend to distort the sense of the discussions of the Commission, of which the Commission endeavoured to render the exact tenor in its Minutes.

The Chairman pointed out that the question appeared to be of some delicacy. Personally, his opinion was unchanged. He did not attach any great importance to the distortion which the Press sometimes inflicted upon certain public debates. The Commission had already held two sessions. It had already held one plenary meeting, which he still believed to have resulted in increased prestige for the Commission in public opinion. The Commission, however, was still young, and perhaps it still had need of more experience. He accordingly proposed to postpone a decision, pending further developments, and to see what the Assembly might have to say.

The question of the publicity or non-publicity of the plenary meeting now remained to be discussed. It must not be forgotten that publicity for the plenary meeting was provided in the Rules of Procedure approved by the Council.

M. RAPPARD, replying to M. BEAU, defined the meaning of a suggestion which had just been submitted to the Commission. The Rules of Procedure contemplated a public plenary meeting, during which all kinds of questions were brought up. His suggestion was to choose certain questions or even to devote the plenary meeting to the study of a single question. For example, everyone was agreed as to the dangers of the liquor traffic in Africa, but there were different opinions on the extent of this danger, its character, and the methods of meeting it. Here was a question on which an interesting discussion might be opened, and the study of which in the Minutes might later be extremely profitable. The Mandates Commission, as a high international authority in colonial matters, would gain the respect of public opinion by organising such meetings.

From an exchange of views between the CHAIRMAN, M. van REES, M. BEAU and M. RAPPARD, it transpired that, if the Rules of Procedure were literally interpreted, the Commission could not suppress publicity for the plenary meeting without introducing an amendment into its Rules of Procedure, and without having this amendment previously approved by the Council. On the other hand, however, as the idea of a public meeting had come from the Commission itself, the Commission was free to take any decision it might desire.

Sir F. LUGARD observed that the members of the Commission had a certain number of subsidiary questions to put to the accredited representatives, but they would not be able to do so if the course of the discussion were fixed in advance.

M. RAPPARD suggested that the public meeting might be immediately preceded by a private meeting, where all the necessary observations might be exchanged.

Sir F. LUGARD agreed.

M. BEAU, supported by M. ORTS, thought that, if the public meeting at the end of the session were devoted to the thorough discussion of a single question, the meeting would assume excessive proportions.

The CHAIRMAN suggested another method which would enable several questions to be dealt with in a reasonable time, keeping to general principles. Each member of the Commission who had dealt with special questions would speak on behalf of the Commission on the question to which he had given particular attention. If the Commission accepted this proposal, it would be necessary, first, to agree on a list of questions to be raised at the public meeting, a list which would be communicated to the accredited representatives so that they might be in a position to reply, and, secondly, to appoint among the members of the Commission rapporteurs for each of these questions.

The Chairman, with the approval of the Commission, invited M. Rappard to read a note which he had prepared, based on extracts from the Minutes of the first four meetings, in which attention was drawn to a certain number of points on which explanations would be asked from the accredited representatives. It was understood that this list was not exclusive.

M. RAPPARD said he had just mentioned the question of the liquor traffic, taking it as a type of question for public discussion, because it would be very advantageous for the Commission to be associated in this matter with Sir F. Lugard, who was so highly qualified to deal with it, and because the Council, in its resolution of July last, had emphasised the responsibility which lay upon the Commission in this matter.

The note prepared by M. Rappard was read (Document C. P. M. 59). Special note was taken of the following questions:

(1) Disposal of the revenue derived from the sale or lease of ex-enemy property (the Legal Section of the Secretariat had, in accordance with the decision of the Commission, been asked to consider this question).
(2) Application of a uniform rate of duty to alcoholic drinks in neighbouring territories.
(3) The extension to mandated territories of the most-favoured-nation clause and of other benefits derived from international conventions.
(4) Public loans.

147. APPOINTMENT OF RAPPORTEURS.

The CHAIRMAN summarised the decision of the Commission on this point. In the course of the examination of the reports in the presence of the accredited representatives, the latter were interrogated on the principal questions noted by the Commission as well as upon any supplementary question which might arise. At the plenary meeting, the principal questions would be taken up again, and each of the members of the Commission would speak as rapporteur.

The list of rapporteurs was thus determined:

Land tenure: M. van Rees.
Education: Mme Bugge-Wicksell.
Liquor traffic: Sir F. Lugard.
Social welfare: M. Yanaghita.
Slavery and labour questions: Mr. Grimshaw.
Disposal of the proceeds of the sale or lease of ex-enemy property in the territories under mandate: M. Orts.

The possibility of introducing uniform rates of duty on alcoholic liquors in neighbouring territories: Sir F. Lugard.
Most-favoured-nation clause: M. Beau.
Public loans: M. d'Andrade.

The CHAIRMAN and M. ORTS defined the question at issue. The territories under mandate should not be in a position of inferiority as compared with the colonies, as had appeared by the example of coffee from Tanganyika territory. The Commission, generally speaking, desired that the benefit of treaties of commerce, etc., should be extended to territories under mandate, and this would seem to render negotiations necessary.

It was understood that the text elaborated by the rapporteurs on each special question would constitute in some degree a preparatory work for the drafting of the report of the Commission to the Council, and that the text would include a reasoned statement and a draft recommendation.

148. Relation between the Permanent Mandates Commission and the Assembly or the Committees of the Assembly.

The CHAIRMAN reminded the Commission of the big discussion which had taken place in the previous year at the plenary meeting and that the work of the Commission, although carried out with all possible care and tact, did not always give a favourable impression to the Assembly, and particularly to the special Sub-Committee of the Sixth Committee of the Assembly. In warmly thanking Mme. Bugge-Wicksell for having taken up the defence of the Mandates Commission, he insisted on the fact that it was extremely desirable that the Commission should not be abandoned before the Assembly and its Committees.

M. RAPPARD thanked the Chairman for giving him the opportunity of recalling the fact that before the Sub-Committee of the Sixth Committee he had been called upon, not to take up the defence of the Permanent Mandates Commission, but to explain the point of view expressed by the Commission in its report. Personally, he shared the views expressed by the Chairman.

Mme. BUGGE-WICKSELL proposed the following procedure: Since each State was able to appoint substitutes in its delegation to the Assembly, the Chairman might be asked to form part of the delegation of his country when a discussion on the mandates arose. No one could speak with more authority for the Commission than the Chairman.

The CHAIRMAN asked whether a question of incompatibility did not arise.

M. ORTS thought that this point should be definitely considered. When the work of the Permanent Mandates Commission was under discussion, the Commission should be heard, and preferably through its Chairman acting as Chairman of the Commission and not as member of the delegation of his Government.

M. RAPPARD said that there were precedents.

The CHAIRMAN said he agreed with this point of view, adding that the Vice-Chairman of the Commission, his distinguished Dutch colleague, who, moreover, resided in Switzerland, would be highly qualified to represent the Commission if it should be necessary.

It was agreed that, in the report to the Council, the Commission should express a desire that if, during the discussions on mandates in the Assembly or its Committees, questions were raised, it should be possible for the Mandates Commission to be heard.

149. Preliminary Examination of the Report on the Administration of the Islands under Japanese Mandate.

The CHAIRMAN pointed out that this report, as well as the Belgian report, was addressed, as it should be, to the League of Nations. The report was excellently drafted and replied faithfully to the questionnaire; he would like to thank the Japanese Government for the report.

Slavery.

Mr. GRIMSHAW said that the report replied, by means of a note, to an observation which had been made last year by Mr. Ormsby-Gore on the subject of domestic service, but that this note did not give the information required.

Labour.

Mr. GRIMSHAW observed that the explanations asked for in the previous year in connection with Question C (4) (page 11) were not to be found in the present report. Moreover, he would like to receive the texts of legislation, even in Japanese.

Arms Traffic.

No observations.

Traffic in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD said he would like to have more details in the statistical portion.

Liberty of Conscience.

M. YANAGHITA drew attention to the fact that almost all the inhabitants were Christians and that there were accordingly no difficulties on this subject.

Military Clauses.

No observations.

Economic Equality.

M. ORTS pointed out that the report was positive on this subject, and M. RAPPARD added that this was all the more satisfactory as the report was dealing with a C Mandate, where stipulations of this kind were not obligatory.

Education.

Mme. BUGGE-WICKSELL had nothing but praise for the Japanese Government, which expended under this heading sums very much more considerable than was the case in territories which were more extensive.

M. ORTS associated himself with this compliment, adding that it was natural in a territory which had reached a high degree of civilisation (all the inhabitants were Christian) for the budget for public education to be relatively high.

Public Health.

No observations.

Land Tenure.

M. YANAGHITA, replying to M. van Rees, said that he would ascertain whether there existed any ordinances concerning the regulation of the domain.

Social Welfare, etc.

M. YANAGHITA said that Part A was in answer to the requests for details made during the previous year in respect of the special procedure applicable to the natives.

M. van REES said he would like to have the actual texts.

Public Finance.

The CHAIRMAN and Sir F. LUGARD noted that the figure appearing on page 17 — 3.300.00 — should probably read 3.300.000.

The CHAIRMAN added that it would be useful to know whether the contributions of the Japanese Government were allocated to two different items. Finally, as regarded phosphates, which seemed to be of great importance in view of the size of the revenue, which was mentioned for the first time in the report itself, it would be well to ask for precise information from M. Matsuda.

Sir F. LUGARD wished to know whether the phosphate mines had been acquired by the mandatory Power. Were they previously the property of the German Government or of private individuals or were they an entirely new venture ?

M. ORTS thought that the Commissioner of the Japanese Government might be invited to be ready to reply to the following question: What has become, generally speaking, of the ex-enemy private estates ?

M. YANAGHITA, referring to the large subsidies given to the shipping companies, explained that, without these subsidies, the shipping companies would be obliged to abandon the islands, where there was only a very little traffic.

The CHAIRMAN, while recognising that the administration of hundreds of scattered islands must be very costly, said that it would be well to have explanations on the large amount shown in two items of expenditure: namely, salaries and office expenses.

NINTH MEETING (Private)

held at Geneva on Wednesday, July 25th, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar.

150. Communication regarding the Date of Arrival of Sir James Allen.

M. Rappard communicated to the Commission the reply of Sir James Allen, who would arrive at Geneva on August 3rd, but who would be obliged to leave on the evening of August 4th for Constantinople.

151. Preliminary Examination of the Report on the Administration of Nauru.

Labour.

Mr. Grimshaw referred to the new ordinance regulating labour questions to be found on page 7 of the report. This was the first ordinance of the kind. It was very complete, and it satisfied the requests made by the Commission at its last session. The text of the ordinance was given on page 30 of the report.

Sir F. Lugard asked whether the ordinance applied to the Chinese as well as to the natives.

The Chairman emphasised the importance of the question. The text which figured on page 30 drew a distinction between the Chinese and the natives.

Economic Equality.

M. Orts pointed out that there was no economic equality, but a system of State monopolies. Nauru was placed under the regime of the C Mandates.

Education.

Mme. Bugge-Wicksell said that the report as a whole was very satisfactory; it did not, however, furnish any information on the curricula of the mission schools, and she hoped that information upon this point might be given in the report of next year.

The Chairman observed that a sum of £482 set aside for education seemed to be very small as compared with the total budget.

Mme. Bugge-Wicksell said that the main part of the expenditure was borne by the missions.

Land Tenure.

M. van Rees pointed out that, on page 12 of the report, it was stated that the amount of land belonging to the State was very small (100 acres), whereas on page 22, Article 6 of the ordinance enumerated various kinds of Crown lands. There seemed to be a contradiction here. He reserved the right to ask some questions later in regard to land tenure.

M. Yanaghita pointed out that on page 12 it was said that no lands were communally owned.

Public Finance.

Sir F. LUGARD pointed out that there were only 1,000 natives, and the taxes levied on them were numerous and at a high rate. It did not appear, on the other hand, that indentured workers had to pay high taxes. It would seem that, in view of the wealth of the islands, the natives might be slightly taxed, but exactly the contrary appeared to be the case.

The CHAIRMAN said that the expenditure on health and education was small as compared with other expenditure.

M. RAPPARD asked why the capitation tax did not figure among the sources of revenue.

Various Questions.

M. YANAGHITA asked from what regions the Kanakas came. Their entrance into the territory was noted, but their emigration was not mentioned in any report.

M. van REES drew his attention to page 7 of the report, where it was said that the Kanakas came from the South Sea Islands and New Guinea.

Sir F. LUGARD drew attention to the fact that the 1,000 natives had been divided up into fourteen districts commanded by fourteen chiefs.

The CHAIRMAN noted with pleasure that the administration of Nauru had made a serious effort to reply to the questions asked by the Commission in the questionnaire.

152. PRELIMINARY EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF NEW GUINEA.

The CHAIRMAN noted that the report, in accordance with the spirit and letter of the Covenant, was addressed to the League of Nations.

Slavery.

Mr. GRIMSHAW pointed out that the new report revealed the existence of slavery (paragraph 447) in certain areas not yet brought completely under Government control.

Labour.

Mr. GRIMSHAW pointed out that two provisions found in a former ordinance to which objections had been raised during the past year had disappeared in a later ordinance; that new clauses had been formulated for the protection of women; and that the only punishment which the employer could now inflict on his own authority was to deprive his employees of tobacco and that even this punishment must be reported to the authorities.

The report in several places drew attention to the danger involved in the transfer of workers from one part of the country to another. This was a very important question in New Guinea, in view of the decrease of the population. As a general rule, the recruiting of workers for employment outside the territory was prohibited, and the only exception made was for the Island of Nauru. He reserved the right to put certain questions of detail later on.

Traffic in Arms. Trade in and Manufacture of Alcohol.

Sir F. LUGARD noted that there had been 264 licences for the import of arms. This appeared to be a considerable number, and called for a word of explanation. He was astonished at the statement which appeared in paragraph 323, if it meant that there was no native manufacture of alcoholic drinks.

Economic Equality.

M. ORTS noted on page 131 (paragraph 473) that the right to acquire the property of expropriated Germans was reserved for Australian soldiers. The question arose in this case, as in the case of other territories under mandate, as to what became of the proceeds of the sale of this property.

M. RAPPARD reminded the Commission incidentally that the liquidation of the property in question had been the subject of lively discussions in the Press and Parliament of Australia. The Commission had not received any petition on the subject, but three days ago a former Australian officer had addressed a letter to the Secretariat to ask what procedure a petitioner should follow.

Following an exchange of views, *the Commission decided to examine only complaints which came before it in the regular way, and to reply to requests for information by indicating the procedure normally followed in regard to petitions.*

It further decided to ask the representative of Australia whether the sale of German property to Australian soldiers had given satisfaction.

Sir F. LUGARD drew attention to paragraph 173 (page 44) where it was said that an agency of the Australian Government had made a profit which had been paid into the Treasury of the Commonwealth. This passage seemed to be in contradiction with paragraph 388 (page 104) where it was said that the Government had not derived any direct profit of any kind.

M. ORTS was inclined to consider it contrary to the spirit of the Covenant for the mandatory Power to derive any direct benefit from a territory under mandate. He asked, however, whether there existed a precise text which might be quoted in support of this view. Was there actually a text which imposed a policy of disinterestedness on the mandatory Power ? Was it not a question of degree and of appreciation ?

The CHAIRMAN reminded the Commission that its duty was to give advice, to settle questions, and even to take the initiative of drawing the attention of the Council to certain points.

M. BEAU said that the policy followed in New Guinea was a consequence of the political system of Australia which tended towards a socialistic organisation of the State. The Commission might draw attention to the contradiction which appeared to exist between the passages quoted by Sir F. Lugard, and might ask the representative of the Government of Australia for a word of explanation.

M. van REES wondered whether a Government might not have a commercial agency in a territory under mandate.

Sir F. LUGARD thought that there was no objection to this, on condition that there was free competition and not a State monopoly.

M. d'ANDRADE observed that the system of purchases made directly by the Government agents from the natives had, as a rule, very unfortunate results; the agents were inclined to profit by their authority to bring pressure to bear on the natives, and to pay prices which were inferior to market prices.

M. YANAGHITA said that the Government was exploiting certain enterprises in which it made experiments, and that this was perhaps a question touching the proceeds of such exploitation.

M. RAPPARD said that paragraph 173 probably referred to an agency which was dealing with the sale and administration of sequestrated German property for account of the Expropriation Board mentioned on page 123.

M. ORTS asked whether the proceeds of ex-enemy property should not be paid to the account of reparations.

The CHAIRMAN thought that it would be advisable to formulate questions to be put to the representative of Australia and he asked the Commission for an opinion on the question of principle, namely, whether a policy of disinterestedness was at the basis of the Mandates system.

M. BEAU proposed to formulate the question as follows:

(1) Was there actually a monopoly ?
(2) What became of the proceeds of the sale of this monopoly ?

The proposal was approved.

In reply to a question of M. ORTS, M. RAPPARD reminded the Commission that the word "disinterestedness" did not occur in the Covenant, but the mandate, according to the terms of the Covenant, was a system of "tutelage" and tutelage implied a disinterested activity. Further, it was stated, in the reply of the Allied and Associated Powers to the observations of the German Delegation on the conditions of peace, that the Allied and Associated Powers "are of opinion that the Colonies should not bear any portion of the German debt, nor remain under any obligation to refund to Germany the expenses incurred by the Imperial administration of the Protectorate. In fact, they consider that it would be unjust to burden the natives with expenditure which appears to have been incurred in Germany's own interest, and that it would be no less unjust to make this responsibility rest upon the mandatory Powers, which, in so far as they may be appointed trustees by the League of Nations, will derive no benefit from such trusteeship". This text had an official character and the force of an authentic interpretation.

Finally, if it were a question of a transfer of the territories, allowing of their exploitation for the profit of the mandatory Power, the value of the territories thus ceded would doubtless have been placed to the account of reparations. If, after having refused to reduce the reparations debt by the amount of the value of the territories transferred, these territories came to be exploited as if they had actually been ceded, the League of Nations might be accused of sanctioning a policy which was hardly a policy of good faith.

Sir F. LUGARD thought that, if the principle of disinterestedness were abandoned, there would in reality exist a disguised form of annexation.

M. van REES wondered whether the Commission was actually dealing with a direct benefit, which alone appeared to be contrary to the system of mandates.

M. ORTS observed that the principle of disinterestedness, such as resulted from the declaration referred to by M. Rappard, involved all kinds of consequences. It would involve a condemnation of the system in force at Nauru and possibly of the exploitation of the phosphates in the Pacific Islands.

Sir F. LUGARD thought that the case of Nauru was different. This was a right of exploitation acquired by payment of a large sum to its possessors by a third party before the mandate was conferred.

The CHAIRMAN reminded the Commission that, in the case of Nauru, there was a confusion between the system of exploitation and the administration of the territory, and that a State monopoly existed.

Following an exchange of views, *the Commission adopted the following declaration of principle formulated by* M. ORTS:

> "It would be contrary to the spirit of disinterestedness which is the characteristic of the system of mandates for a mandatory State to create, under cover of its mandate, in the territory entrusted to it for administration, a Government enterprise of an industrial or commercial character the profits of which were credited to the central budget of the mandatory State."

The CHAIRMAN said that the Commission would only have to apply this principle to concrete cases when the representatives of the mandatory Powers were heard. He thanked Sir F. Lugard for having raised this important question.

Public Education.

The CHAIRMAN said he had not found in the budget any credit for public education.

Mme. BUGGE-WICKSELL noted on page 89 an expenditure to the amount of £11 11s.

The CHAIRMAN noted on page 90 a considerable expenditure, but this was perhaps borne by the missions.

M. RAPPARD observed that the expenditure under the heading of public education might in fact have been more considerable, and that the figure indicated perhaps represented a surplus in the funds allotted for education.

Mme. BUGGE-WICKSELL drew attention to pages 90 and 131. It would be interesting to know to what extent children were obliged to work on the large estates of the missions.

Land Tenure.

M. van REES referred to the question in the questionnaire: "What lands are considered as belonging to the State?"

The report gave a reply on page 132 to the effect that, by Article 11 of the Lands Ordinance 1922, the administrator of the territory is authorised to "declare that any land of which there appears to be no owner shall be Crown land; but this power has not yet been used". This reply did not seem to him to be complete, since one could conclude from it that up to the present there were no Crown lands in New Guinea, which did not agree with Article 6 of the Laws Repeal and Adopting Ordinance 1921, and with the definition of Crown land given in Article 4 of the Lands Ordinance.

The power of the administrator in question, which is mentioned on page 96 of the report, gave rise to two questions. First, is the domanial declaration provided for in Article 11 of the Land Ordinance obligatory before the administration can dispose of land? Secondly, in the event of a claim being rejected regarding land which the administrator proposed to declare Crown land, was this decision, which he was authorised to take in the name of the administrative power, without appeal?

Moral, Social and Material Welfare.

M. YANAGHITA noted a decrease in the native population and asked if measures might be taken in order to hinder the transfer of native workers recruited in distant islands.

Public Finance.

The CHAIRMAN left to Mme. Bugge-Wicksell the task of putting questions regarding the expenditure for public education. He thought it would be useful for the next report to include comparative tables. The report, generally speaking, was satisfactory and answered the questions contained in the questionnaire.

TENTH MEETING (Private)

held at Geneva on Wednesday, July 25th, 1923, at 3.30 p.m.

Present: All the members of the Commission except Count de Ballobar.

153. Preliminary Examination of the Report on the Administration of Samoa.

M. Orts informed the Commission that he had received two different texts of this report.

Mme. Bugge-Wicksell said that this had also occurred in her case.

The Chairman pointed out that the New Zealand report on Samoa differed from the reports of the other mandatory Powers in that the replies to the questionnaire were placed at the end. The report which had been received was noticeably late, since it covered the period from April 1st, 1921, to March 31st, 1922.

Slavery.

No observations.

Labour.

Mr. Grimshaw raised the point that indentured labourers accompanied by their wives, whose expenses were paid by the administration, were under the necessity of signing contracts for six years instead of three years. This period seemed to him to be a little long, and might tend to prevent the bringing of wives, whose presence was desirable from many points of view. It had been alleged that the Samoans were unwilling workers; various passages in the report, however, seemed to show that this was not always the case and that where it was clear to them that their interests were involved, they seemed capable of notable effort.

Traffic in Arms.

No observations.

Trade in and Manufacture of Alcohol.

Sir F. Lugard said that total prohibition was in force. It would be interesting to hear how this regime had succeeded in regard both to Europeans and others.

Liberty of Conscience, Military Clauses, Economic Equality, Education, Public Health.

No observations.

Land Tenure.

M. van Rees noted that, in reply to the question: "What lands are considered as belonging to the State?" the report stated (page 35, Section 1 *a*) that Article 268 of the Samoa Act only considered as Crown land land which had belonged to the German Government and lands of which Germans had been dispossessed. From the terms of Article 268 (which was read), it would be impossible to distinguish what land belonged to the Crown and what did not. It must be concluded, therefore, from the reply contained on page 35 that the two categories of land there specified were Crown land, with the exception of all vacant land or native reserves. This fact was interesting, because this was the only territory where Crown land was defined in this manner.

M. Orts concluded from this that in Samoa the possessions of ex-enemies were considered to be Crown land. They had not been sold, and there was nothing to indicate that their value had been paid over to the reparations account. There was, therefore, no general practice regarding this matter uniformly in force in the various mandated territories. It was necessary to make clear the obligations of the mandatory Powers as regarded the disposal of the possessions of ex-enemies. At present, there were two systems: according to one of them, which appeared to

be adopted by the British Government, these possessions should be liquidated for the profit of the reparations account; according to the other, the possessions themselves or their value could be held by the administration of the mandated territories. It seemed that one or other of the two systems was in force in the different territories.

In reply to a question from the CHAIRMAN, Sir F. LUGARD informed the Commission that he had officially written to his Government on this matter as regarded Tanganyika, and he had received from the head of the appropriate department of the Colonial Office an unofficial but valuable reply, in which it was said that the sums realised by the sale of ex-enemy property were in process of being placed to the credit of the debt liquidation account.

M. van REES further drew attention to the special policy pursued in Samoa regarding native lands. This was defined in Articles 278 and 280 of the Samoa Acts, where it was provided that all native land was to be considered vested in the Crown as the trustee of the beneficial owners thereof, subject to the native title and under the customs and usages of the Samoan race. It was neither lawful nor competent for a native to make any alienation of a portion of his land or of the interests attached to it, or to dispose of it in any way except by a disposition in favour of the Crown. This was the general rule, and only one exception was allowed. The native land could be leased for a period not exceeding 40 years, but this exception must be understood to mean that it was the administrator of the territory who acted for the owner, if he were satisfied that the conclusion of the lease was in conformity with the desires and interests of the owner as well as in the public interest. In this case the rents and other profits of the lease would be received by the Crown in trust for the owner.

Sir F. LUGARD explained that this system was somewhat similar to that which had been applied in the northern parts of the Cameroons and in Nigeria.

M. van REES finally drew the Commission's attention to Articles 281, 282 and 283 at the end of Part 9 of the Samoa Act, which he read. Article 281 laid down that the native title was not to avail against the Crown. Article 282 laid down that a proclamation was to be conclusive as to a native title. In accordance with Article 283, alienation of the land in favour of the Crown was not to be invalidated by reason of the native title thereto not having been duly extinguished. From these stipulations it appeared that it was not the legal but the administrative authorities themselves who possessed the right to take a final decision. He thought that explanations should be furnished on this point.

Sir F. LUGARD thought that the aim had doubtless been to avoid by this means recourse to legal proceedings, which might be carried on interminably.

It was necessary that, if the Crown granted a title to a non-native over a piece of vacant land, there should be some security that the title should not be challenged at some future time — perhaps at the instance of some native lawyer resuscitating some ancient claim perhaps fifty or one hundred years old. For this reason, it seemed necessary that, when the Government had decided that the land was part of that over which it exercised the right of disposal, either on behalf of the Government or on behalf of the natives (if the disposal of native lands were vested in the Government as trustee), its decision should be final. Prior to the grant, an enquiry would have been made and any possible objections would have been heard.

Moral Social and Material Welfare.

No observations.

Public Finances.

The CHAIRMAN said that the report did not show whether the budget of Samoa was completely separate from that of New Zealand, or whether it formed a chapter of that budget. The distinction was, however, evident from the facts. The expenses for education were small, even if the total budget produced from taxes paid by the natives were taken into consideration. It was interesting to note that, as far as the contribution of New Zealand was concerned, until 1922 the sums thus paid had not borne interest. In that year the contribution was £25,000, without interest or sinking fund. In addition to this sum, 5 per cent interest was charged, and 1 per cent for a sinking fund.

The reply to the questionnaire in general was satisfactory.

Sir F. LUGARD noted that, as far as Samoa was concerned, the sum lent was equivalent to a loan, or to a repayable advance. This was the second case of the kind which had been noted.

The CHAIRMAN thought that the position was somewhat extraordinary from a financial point of view. It was the lender who had fixed the rate of interest and sinking fund. If the budget was not sufficient, the lender made up the balance, and thus a vicious circle was formed. The debt was continually increased, unless the revenues were increased. The case was not therefore exactly similar to that of the loan which had been referred to in other reports.

M. d'ANDRADE noted that, in accordance with Article 22 of the Covenant, mandates were entrusted to nations "which, by reason of their resources," etc. The mandated territories had therefore been entrusted to those countries which possessed the means to develop them. The Covenant, however, did not lay down that these mandatory Powers could make advances on which the natives would have to pay interest. What would happen in the last resort if the budget of a mandated territory proved insufficient ?

M. RAPPARD was not sure that this particular passage of the Covenant was capable of such an interpretation. Did the fact that the Powers were not to extract any profit from the territories imply that the Powers were under an obligation to bestow what amounted to gifts ? Five per cent interest and one per cent for sinking fund did not constitute what could be called a good business proposition.

M. d'ANDRADE maintained his opinion that it was a strange position for the Power which had the tutelage of the territory to make the advances and to fix the interest.

Sir F. LUGARD thought that explanations would be desirable regarding the "Stores held on loan account" mentioned in the second paragraph of the note on page 29, and also regarding the "New Zealand Treasury settling account". It had been said in the course of the discussion that the profit from the sale or exploitation of ex-enemy property would go to increase the local revenue. Profits thus obtained did not appear in the budget.

M. ORTS also thought that it was important to know the revenue of the lands of the territory. Another question might be put to Sir James Allen on the following point: when the question of financial assistance from the central government was raised on the report on the Cameroons, the Commission asked M. Duchêne what, according to the French Government, were the rights which accrued from its financial intervention. A distinction had been drawn between financial assistance of an annual character designed to meet the budgetary deficit and advances of capital for the execution of large public works. Sir James Allen might be asked what, according to him, were the rights which should be recognised as acquired by the Government of New Zealand in return for the financial assistance which it was giving to the territory under mandate.

154. COMMUNICATION REGARDING THE DATE OF ARRIVAL OF M. MATSUDA.

The CHAIRMAN informed the Commission that M. Matsuda would be at Geneva on Saturday, July 28th.

155. PRELIMINARY EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF SOUTH-WEST AFRICA.

The CHAIRMAN observed that the Commission had received not only the report for 1922, but also the report for 1921, which had not arrived in time the previous year. The report for 1922 was the only one to be examined, being the more recent. This report was addressed, not to the League of Nations, but to the South African Parliament. It did not seem to follow precisely the order of the questionnaire.

M. ORTS remarked that it appeared from one passage in the report (page 22) that it had indeed been drafted for the Mandates Commission.

Nationality of the former German Colonists.

M. van REES pointed out that this question was dealt with in the first paragraph on page 6, which was read to the Commission.

Slavery.

Mr. GRIMSHAW noted that the report referred, on pages 18 and 19, to a case of slavery in regard to which the Administration had not yet been able to take any steps.

Labour.

Mr. GRIMSHAW observed that the report gave a brief summary of the labour laws. He would have preferred the texts themselves. Moreover, the report did not reply adequately to two or three questions put during the previous year, particularly on the subject of labour in the mines.

Sir F. LUGARD drew attention to the last sentence of the fourth paragraph on page 11, which it might be advisable to elucidate.

The CHAIRMAN noted that the document entitled the "League of Nations", which appeared on pages 11 and 12, was, without doubt, simply given for information.

Arms Traffic.

No observations.

Trade in and Manufacture of Alcohol.

Sir F. LUGARD noted on page 9 that the Catholic mission exploited a distillery, which seemed contrary to the Convention of St. Germain, of which the South African Government was a signatory.

Liberty of Conscience; Military Clauses.

No observations.

Economic Equality.

M. ORTS found no reference to this in the report.

Education.

Mme. BUGGE-WICKSELL noted that an Education law had been promulgated, but that as yet there did not seem to exist a single public school for the natives.

The CHAIRMAN added that there was an expenditure of £79,000 for education exclusively for non-natives.

Mme. BUGGE-WICKSELL remarked that there was a small grant-in-aid of £765 to a training college established by the Rhenish Mission Society, but that was all.

Public Health.

No observations.

Land Tenure.

M. van REES: The Commission in the previous year had asked what was the nature of the rights granded the natives living on the native reserves. The report did not mention the matter, nor did it reply to many important questions. What was the authority which disposed of the lands which formed part of these reserves ? Was it the native chief ? Was any disposal of these lands by non-natives excluded ?

The CHAIRMAN wondered what, generally speaking, was the object of these reserves. Was the object to hinder communications between tribe and tribe ? Was it a measure taken in the interests of public order ? The Commission, according to the replies which were made, would be able to decide whether there was in this system anything prejudicial to the system of mandates. The natives under this system were kept at a distance from civilising influences.

M. van REES observed that, according to the replies given in the previous year, there were "Land Settlement Laws", but the Commission had no knowledge of these laws. It was said, in the replies given on page 6, that any land not forming part of the property of a private person was considered as belonging to the State, but the report did not even mention this domain.

Moral, Social and Material Welfare.

M. YANAGHITA noted on page 22, last paragraph, penultimate sentence, an allusion to the lack of sympathy shown by certain Europeans for the natives. This allusion seemed to call for an explanation.

Sir F. LUGARD noted on page 16 the severe penalties imposed by Proclamation 25 of 1920 in respect of vagrancy. All Bushmen might be described as vagrants. He also commented on the powers given to the magistrates to send offenders to work, even for private persons, in lieu of imprisonment prescribed by law.

M. YANAGHITA observed that, from the general spirit of the report, it might be inferred that there was a tendency on the part of the white population to exploit the native population, or a tendency to effect a complete separation between the two races.

The CHAIRMAN agreed with these observations.

Sir F. LUGARD called attention to the system of passes which was imposed on the natives (page 18).

The CHAIRMAN thought that it would be well to ask the reasons for these restrictions upon individual liberty.

M. d'ANDRADE thought an explanation might be found in the fact that there was a population of 1½ million whites as compared with 4½ million natives. Not only in Rhodesia, but in the whole of South Africa and, above all, in the South African Union, there was a tendency in favour of separating the two races. This was done to protect the women and children against those of the black population who were entirely uncivilised. It was for circulation in the towns that the natives had to be furnished with passes. It would also be observed that natives amenable to civilisation, who had passed through the schools, were as well treated in South Africa as elsewhere. It might perhaps be advisable for this Commission to endeavour to define the term "native". In South Africa, persons were regarded as natives who had kept the manners of their race, but the term was not applied to educated natives. The uneducated natives were clearly submitted to certain rules which were rather more severe, while the educated natives possessed, he thought, all the rights of the white population.

Public Finances.

The CHAIRMAN noted that the report did not contain sufficient information on this subject. He noted also that the highest expenditure was for the police. He drew attention to the irregular form in which the members of the Commission had received the budgetary documents.

The Bondelzwarts Affair.

Sir F. LUGARD noted on page 22 an allusion to this affair and also a reference to a second affair with the Bushmen, regarding which he had little information.

156. ENQUIRY REGARDING THE BONDELZWARTS REBELLION OF 1922.

The CHAIRMAN thought that the Commission should adopt a definite procedure in the study of this important question. He read the text of the resolution voted on September 20th, 1922, by the third Assembly, on the motion of M. Bellegarde. Since last year, the members of the Commission had received a certain number of documents dealing with this affair. A copy of a letter had been distributed to the members of the Commission which had been addressed to the Secretary-General of the League by the Anti-Slavery and Aborigines Protection Society of London.

The procedure to be adopted by the Commission when the representative of the South African Government came to be heard was a question of great importance, in view of the keen interest which the Bondelzwarts affair had aroused in the two continents, and in view of the expectations of the Assembly or of certain groups in the Assembly, which had expressed "the confident hope that the Permanent Mandates Commission", etc.

The Chairman thought that the Commission would have to formulate precise questions and that, according to the replies, more or less satisfactory, which it received, it would have to give the Council some indication of its views, which the Council would forward to the Assembly. On the other hand, it was doubtless necessary to avoid entering into certain details which it would be impossible to verify at a distance.

M. van REES had observed that the report of the Commission of Enquiry, like all the other documents received, did not furnish any reply on the points mentioned in the resolution of the Assembly, though these points were very precisely defined. It would be necessary to put questions on this subject.

M. BEAU believed that the Commission must make a serious effort to elucidate this question. This was the first time the Commission had been confronted with an event of such importance, and its present attitude would to some extent determine the procedure afterwards to be followed in such matters.

M. van REES agreed with these observations.

M. d'ANDRADE also recognised the gravity of the question. The Commission had before it the documents in the case, and it was to hear the administrators concerned. This meant that it would hear evidence of only one kind. The letter which had been distributed to the Commission mentioned certain persons who were well acquainted with the affair as a whole. The Commission would not go so far as to invite these persons or representatives of the Anti-Slavery Society to appear before it; but it might ask the representative of South Africa whether he saw any objection to the Commission hearing the representatives of this society.

M. van REES did not approve of this procedure. It was not the duty of the Permanent Mandates Commission to hold such an enquiry. The documents which it had received did not appear to furnish a reply to the questions raised by the Assembly. The Commission must therefore endeavour to obtain these replies from Major Herbst. It could not hear everybody. It could not appear to throw doubt in advance upon the South African report.

The CHAIRMAN thought M. d'Andrade's suggestion very important. An investigation must as usual be made by an authority absolutely independent of the two parties. The Permanent Mandates Commission only had before it the report made by the authority which was itself involved. This did not imply that these documents were suspect, but it might be asked whether they sufficed

for the object at which the Commission was aiming, namely, to reassure the Assembly. He suggested that the Commission should begin by carefully reading Chapter VII of the report, which contained the conclusions. It would then be in a better position to fix a programme of work.

Sir F. LUGARD said that he had been asked to attend a meeting of a committee of the League of Nations Union on this subject, but he had thought it better not to do so. On the other hand, he drew the attention of his colleagues to the fact that the Commission had not received any direct communication from the mandatory Power on this question, since the report of the Commission of Enquiry was addressed to General Smuts, who had not intimated to the Mandates Commission his views regarding it. It was true that the opinion of General Smuts was known from the debate which had taken place in the South African Parliament, but the Mandates Commission had no official cognisance of that debate

The CHAIRMAN was not entirely of this opinion, since the report had been presented to Parliament.

Sir F. LUGARD pointed out that there was no letter from the Government of South Africa to the Permanent Mandates Commission stating that it associated itself with the report.

The CHAIRMAN thought that the letter of General Smuts accrediting Major Herbst appeared to indicate that the latter would be authorised to express the views of General Smuts before the Permanent Mandates Commission.

Sir F. LUGARD emphasised the complexity of the problem, which had at least two distinct aspects: (1) What had led to this rebellion and what had been its character? (2) What measures had been taken after the rebellion ? etc.

The Assembly had confined itself very strictly to the second aspect of the problem, and had put precise questions on this subject in its resolution, but public opinion would not be satisfied with the replies given to these questions alone. The problem as a whole must be elucidated by the Mandates Commission.

M. RAPPARD presented the two following considerations : (1) The League of Nations recognised only the Government of the South African Union. The question was whether that Government had correctly fulfilled its mandate. It had forwarded to the Commission the documents which had been prepared for its own information, but the Commission had to decide, not as between the Administrator of South-West Africa and his Government, but as to the actions of the Government itself. (2) The Assembly had voted a resolution in very precise terms addressed to the Mandates Commission. This resolution, however, did not relieve the Commission of its chief responsibility, which was a responsibility towards the Council. The Council had asked the Commission for its opinion on everything which concerned the administration of the territories under mandate. The Commission had, therefore, to deal even with points which did not fall within the scope of the Assembly resolution.

Mme. BUGGE-WICKSELL reminded the Commission of the discussions which had taken place before the Assembly. Sir Edgar Walton had announced that an investigation would be made, and had asked the Assembly to reserve its judgment until the result of this investigation had been communicated to the Permanent Mandates Commission. Therefore the resolution adopted referred only to the future, but the Assembly certainly wanted the Commission to go into the whole affair when the relevant material should be at its disposal.

At the request of the CHAIRMAN, the conclusions of the report of the Commission of Enquiry were read in French (part VII, page 29).

M. d'ANDRADE said he was convinced that the South African Government itself desired that this affair should be elucidated, and he insisted that the representative of South Africa should be asked whether he objected to the Commission hearing the persons concerned.

The CHAIRMAN asked whether the best solution would not be for these persons to forward a regular petition.

157. DISPOSAL OF EX-ENEMY ESTATES IN THE MANDATED TERRITORIES : OPINION OF THE LEGAL SECTION OF THE SECRETARIAT.

M. ORTS said he had noted the text which had been forwarded to the Commission by the Legal Section of the Secretariat in reply to the request of the Commission for an opinion. It appeared from this reply that the liquidation of ex-enemy property must be effected in the former German colonies as in the Allied territories. The mandatory Powers had the right to sell this property, its value being paid into the reparations account. In these circumstances, the question was no longer within the sphere of the Permanent Mandates Commission; it was for the Reparation Commission, if it thought it necessary, to enquire as to the fate of the ex-enemy possessions in the former German colonies.

ELEVENTH MEETING (Private)

held at Geneva, on Thursday, July 26th, 1923, at 10 a.m.

Present : All the members of the Commission except the Count de Ballobar.

158. Enquiry regarding the Bondelzwarts Rebellion of 1922 *(continued)*.

The Chairman reminded the Commission of the proposal made by M. d'Andrade at the previous meeting and asked the members of the Commission for their opinion on it.

M. Beau thought that this proposal involved a certain danger for the Commission. It was the duty of the latter to examine as closely as possible the documents which were submitted to it, and it might express regret at not finding there all the information on the matter which was desirable. But a careful enquiry had been made by the South African Government, and this enquiry was not unanimous, a fact which implied that the victims of the repressive measures had been heard. This enquiry had attracted a good deal of public attention and discussion. It had therefore been made in conditions which afforded certain guarantees, and it might be asked whether a supplementary enquiry, of necessity superficial, would not tend to confuse the Commission. It might be asked, for example, whether the evidence of the Anti-Slavery Society should be credited rather than that of the Government of South Africa. He had been obliged to protest against a statement which this society had made concerning the system of land tenure in the French territories under mandate. According to M. van Rees, who was the great authority on this question, the land system was nowhere more liberal in character than in the French territories, and it might be said that on this point the Anti-Slavery Society had failed to show the impartiality which was desirable. There existed in many countries associations with a tendency more or less socialistic which periodically raised loud protests against what they called the crimes of the colonial policy and attributed exaggerated importance to local incidents. It would be well to accept with some reserve the statements of the Anti-Slavery Society and of any other associations of the same character.

To what authority could the Commission apply ? It could not think of summoning the natives themselves. It could not assume the position of a court of justice. On the other hand, it might consider whether the conditions in which the enquiry had been held were those which should be required by a mandatory Power in dealing with so serious a matter. For this purpose the Commission might ask two or three of its members to examine the documents in the case, in order to satisfy itself as to the impartiality of the enquiry. If this appeared not to be sufficiently evident, the Commission might next examine the documents submitted to it and formulate conclusions. If, however, the Commission were satisfied as to the impartiality of the enquiry, it would be necessary to affirm its confidence in the Government of South Africa, which had given proofs of its political wisdom, notably at the end of the Boer War, and in General Smuts in particular.

Sir F. Lugard asked where the witnesses mentioned in the letter of the Anti-Slavery Society were to be found. If they were in South Africa, it was useless to discuss whether they should be heard.

He drew attention to two important gaps in the report of the Commission of Enquiry. The evidence collected by the Commissioners was not given, nor was the report of the Native Reserves Commission (to which allusion was made) in the possession of the Mandates Commission.

He thought it was not desirable to appoint a sub-committee, for undoubtedly its report would not materially shorten the discussion.

M. van Rees agreed with the observations of M. Beau. In his view, the only practical procedure would be to establish a questionnaire which would enable precise questions to be put to Major Herbst. The Commission might then formulate its conclusions in its report to the Council. This report would doubtless be the subject of a discussion at the plenary meeting, and this was an additional reason for this plenary meeting, as he had already suggested, not to be held in public.

When the questionnaire had been established, the Commission might ask one of its members to study the documents in the case before the representative of the mandatory Power was heard. It would be particularly desirable for Sir F. Lugard to undertake this task, perhaps with the assistance of M. d'Andrade.

There were two aspects of the affair to be distinguished: there was the rebellion itself, if it had been a rebellion, its causes and the methods whereby it was suppressed, and there were the measures subsequently taken by the Government. Each member of the Commission might make suggestions for the drawing up of the questionnaire. To give an example, M. Hofmeyr, replying to the report of the Commission of Enquiry, stated that he had not been heard by that Commission. General Lemmer stated the contrary. One of the questions to be put to Major Herbst could be whether or not M. Hofmeyr had been called before the Commission.

M. d'ANDRADE regretted that he had not made himself understood. He had not been speaking on behalf of the Anti-Slavery Society. He knew there were in this society persons of the highest repute, and if they sometimes allowed themselves to be carried away by their zeal on behalf of the natives, their object was nevertheless philanthropic. The central society had its quarters at Geneva and its president was Dr. de Claparède, a person for whom everyone had the greatest respect and the highest consideration.

This, however, was not the point at issue. The affair of the Bondelzwarts had aroused considerable feeling in the entire world. The Assembly had asked the Permanent Mandates Commission to report to it on the subject within limits which had been defined. General Smuts attached so much importance to the affair that he had sent Major Herbst to Europe, after having submitted to the Commission all the reports and documents concerning it. There was, however, a body which informed us that it could give us information on behalf of the natives. Was the Commission going to reply that it did not wish to hear this evidence if, after enquiry, it was satisfied that the body in question was worthy of confidence ? Such a procedure would certainly have a regrettable effect.

If at the next Assembly such conduct was criticised, the Commission could not very well reply. He had the honour to be a personal friend of General Smuts, and he was sure that General Smuts would be the first to say that the Commission ought to hear all the persons deserving of confidence who offered to assist in elucidating the affair. Moreover, he did not think it likely that the Commission would receive any information in addition to that already given in the documents sent to the Commission by the Government of South Africa. As far as he was concerned, his opinion on the subject was already formed.

The world war had caused the natives to lose some part of the respect which they had formerly for the white populations in South-West Africa. They had seen the white populations fighting one another, and had naturally wished to profit from the occasion. Further, if Mr. Hofmeyr was a man experienced in South African affairs, the agents of the administration, and, above all, the police, who had been recruited from many sources, were not acquainted with the customs or language of the Hottentots, and so they may have been lacking in discretion. The troops had been composed of large bodies of volunteers, many of whom might have had reasons to complain of the natives. Such circumstances were possibly the real reason of the regrettable events which had taken place, and which General Smuts and his Government were certainly the first to regret. General Smuts had doubtless already taken steps to ensure that such events should not occur again, and that those who had suffered from them should be as far as possible compensated. In brief, if there were persons of repute and deserving of confidence who proposed to give the Commission information on the events which had taken place, he did not see how it was possible to inform them that the Commission did not wish to hear them.

M. ORTS was of the opinion that it was morally impossible for the Commission to discard *a priori* the witnesses who contended that they were able to assist in elucidating this affair. Undoubtedly, the Commission was at liberty to ignore evidence which appeared to it to be lacking in interest or untrustworthy, but it must nevertheless be in a position to appreciate the credence which should be accorded to this evidence. The Commission should therefore agree to having it before it. The use which would be made of this evidence would depend chiefly on the attitude adopted by the mandatory Power towards the case before the Commission. As the Government of the mandatory Power had sent to the League of Nations the report of its Commission of Enquiry, without making any observations or reserves with regard to it, the Commission might conclude that the Government of the mandatory Power agreed with the conclusions of the report. The position then was simple: the Mandates Commission had in the report itself numerous facts of undoubted value, evidence of the first importance, to which additional evidence from other sources could add but little.

If, on the contrary, the mandatory Power refused to endorse the conclusions of this Commission of Enquiry which it had itself appointed, if, in the place of this report, the value of which it contested, it supplied no decisive report in its own opinion — if, in other words, the mandatory Power took no interest in the matter and left the Mandates Commission with contradictory reports from officials, of whom some had been personally connected with the events which had taken place, then the Government of the mandatory Power could not be surprised if the Mandates Commission, having been unable to obtain its collaboration in throwing light on the matter, took advantage of any other sources of information which offered themselves.

M. Orts considered that the first question to ask the accredited representative of the Union of South Africa was the following: Does the mandatory Power accept the conclusions of the Commission of Enquiry, whose report has been sent to the Mandates Commission ?

As regarded the Anti-Slavery Society, it could be informed that the Permanent Mandates Commission would note with interest all statements made by any trustworthy persons. The Commission could decide later whether these statements should be used.

M. van REES agreed with this point of view, but the Commission must provide against the possibility that the Government of South Africa might not adopt all the conclusions of the Commission of Enquiry. What procedure would it then be advisable to follow ? It would be necessary to establish a questionnaire, and to put precise questions . What were the facts proving that there had been a rebellion. What were the forces of the rebellion, and what arms had they at their disposal ? What forces had the Government brought into action ? What facts had established the necessity for such a concentration of forces and for a bombardment by aeroplane, etc. ? A precise questionnaire would greatly assist the Commission when Major Herbst came to be heard.

M. ORTS thought that, if the Government of South Africa did not approve of the statements and conclusions of the Commission of Enquiry, the Mandates Commission could invite the representative of the Government of South Africa to reply to the precise accusations which were brought against the local administration by these commissioners.

Sir F. LUGARD said that the natural inference would be that the Government of South Africa approved the conclusions of the report, since it had confined itself to forwarding these documents to the Mandates Commission without comment. But, in view of the fact that the Government had not taken steps to censure the responsible authorities, and that all the officials remained in their posts, it was not possible to adopt this inference.

Finally, the speech of General Smuts in Parliament made this assumption impossible.

M. BEAU emphasised the dangers of a supplementary enquiry in the event of the Government of South Africa not approving the conclusions of the report. He knew by experience how difficult it was to obtain precise information from natives. As for missionaries, they often had a tendency, honourable in itself, to take the side of the natives. What evidence would it be advisable to collect ? Would there not be a risk of the Commission finding itself in the presence of conflicting evidence of varying worth ?

He associated himself with the proposal of M. van Rees; it would be necessary to draw up a list of precise questions: What penalties, for example, had been imposed ? What compensation had been granted to the victims ? If need be, the Commission could inform the Council and the Assembly that it had not sufficient information, and ask that a further enquiry might be made.

The CHAIRMAN noted that it was on the basis of the last paragraph of Article 22 of the Covenant, which he read, and not only as a result of the decision taken by the third Assembly, that the Mandates Commission could deal with this question. He noted that General Smuts had addressed to the Mandates Commission, without a word of commentary, the report of a Commission of Enquiry and the report of M. Hofmeyr. What was the exact value of the report of the Commission of Enquiry ? It was said that the Government of South Africa disapproved of what had taken place, but it would be noted that all the responsible officials remained in their posts. On the other hand, M. Hofmeyr had said that he had not been heard by the Commission of Enquiry, whilst General Lemmer had made a contrary statement. There was here a contradiction to be cleared up. He stated also that it was one of the executive officers engaged in repressing the movement whom General Smuts was sending in order to furnish explanations. In these circumstances, was there anything incorrect in the Commission collecting evidence which might assist it to elucidate the matter, as M. d'Andrade had proposed ? The Commission must proceed along the path traced for it by Article 22 of the Covenant, that was to say, it must watch over the welfare of the population, while assisting the mandatory Powers to fulfil their task, and all useful means of carrying out this work could only be of value.

M. YANAGHITA approved the observations of the Chairman. In his opinion, it was less important to establish responsibility for the events which had taken place than to know what would ultimately become of those who had survived the repressive measures. On this point the Commission of Enquiry was silent, and it would be useful to have information by all possible means.

The CHAIRMAN asked the Commission to give an opinion on the following question: Was it advisable to hear the representative of the Anti-Slavery Society or to ask this society for written evidence ?

M. RAPPARD pointed out that the Mandates Commission had always three kinds of information at its disposal: official information which it drew from the annual reports of the mandatory Powers; official information which it drew from the replies of the accredited representatives of the mandatory Powers; and unofficial information of all kinds which it had asked the Secretariat to furnish, such as cuttings from newspapers, interviews, accounts of Parliamentary debates, etc. In the present case, the information to be given could only be of the third kind. The Mandates Commission was not a court of justice which could readily call witnesses before it. There was, however, apparently no reason why it should forgo information which was offered.

Sir F. LUGARD thought that the conclusions of the report of the Commission of Enquiry were so severe for the local administration that it almost seemed superfluous to hear new witnesses in the case. He had no objection, however, to asking the Anti-Slavery Society for a report of what these persons had to say.

M. ORTS noted that Sir F. Lugard agreed with him in recognising that the report of the Commission of Enquiry constituted a preliminary evidence against the local administration. He noted, on the other hand, that the Commission had three opinions to consider, all of which came from South Africa: there was the opinion of the majority of the Commission of Enquiry; there

was the opinion of M. Hofmeyr and that of General Lemmer. In his opinion, the individual differences in these opinions might for the moment be disregarded. He repeated that the point of interest was to know the opinion of the mandatory Government. If the mandatory Government declared that it approved the conclusions of the report, the Commission would note this declaration, and state that, according to the report itself, this or that reproach might be made against the local authorities. The Commission would then be able: (1) to ask what penalties had been enforced; (2) to ask what had been done to repair the evil; (3) to give its opinion on what should be done in this respect.

Following the reply of the representative of the Government of South Africa, the Commission might ask General Smuts by cable for the views of the mandatory Government; if the South African Government disowned the Commission of Enquiry, the Mandates Commission might then examine much more attentively the report of the Anti-Slavery Society, and any evidence which it might be able to collect.

Following an exchange of views, *the Commission decided to address to the Anti-Slavery Society the following telegram:*

> Letter Anti-Slavery Society received and distributed Mandates Commission stop Commission welcomes all relevant detailed written information from responsible persons if supplied before Tuesday thirty-first July.
>
> THEODOLI, Mandates Commission.

Sir F. LUGARD alluded to M. Orts' remark that he was glad to note that he (Sir F. Lugard) agreed with him in thinking that the report was adverse to the local administration. He wished to emphasise strongly that, in his opinion, it was not a question of any personal view either of M. Orts or of himself. That the report of the majority was adverse was an incontrovertible fact. Many of its adverse conclusions were denied by the minority and by M. Hofmeyr. Opinions might differ as to which was in the right, but the fact remained that the report as it stood was adverse to the local administration.

The CHAIRMAN said that the Commission formally noted, as a result of the reading of the report, that the enquiry was unfavourable to the local administration. This was a statement of fact to be formally noted.

He approved the proposal of M. van Rees that a questionnaire should be drafted.

Following an exchange of views, *the Commission asked Sir F. Lugard and M. van Rees to prepare a questionnaire in collaboration with M. Rappard.*

The Commission further decided to invite M. Orts to draft conclusions on the two French reports on the Cameroons and Togoland.

TWELFTH MEETING (Private)

held at Geneva on Friday, July 27th, 1923, at 10.15 a.m

Present: All the members of the Commission except the Count de Ballobar.

159. Enquiry regarding the Bondelzwarts Affair of 1922 *(continued)* :

Examination of the Questionnaire.

At the request of the Chairman, M. Rappard informed the Commission that the Sub-Committee composed of M. van Rees and Sir Frederick Lugard had met on the previous day. Sir F. Lugard had drawn up a list of questions, which could be divided into two series, for there were two possibilities which the Commission would have to anticipate: (1) that the representatives of the South African Government would endorse the report of the majority of the Commission of Enquiry, in which case only the first series of questions would be put; (2) that the South African representatives would not approve of the report in question, in which case the second series of questions would be put.

In addition to these questions, M. van Rees had prepared certain others on points of detail which would be examined later. M. van Rees desired, at the beginning of the discussion, to determine two points which he considered to be fundamental and which the Commission would have to elucidate.

M. van Rees explained that the first concern of the Commission seemed to be to ascertain whether the responsibility of the Bondelzwarts rebellion, as well as the manner in which it had been suppressed, should be laid partly at the door of the local government. The conclusions which the Permanent Mandates Commission would reach would depend on the result of its enquiries on these two points. If the documents already furnished and the information collected later allowed it to form conclusions upon a basis sufficiently firm, it was the Commission's duty to formulate these conclusions clearly, whatever the consequences might be. If, on the other hand, as appeared probable, the Commission was unable to take a decision on the two doubtful points which he had mentioned, it should abstain from making any criticism of an essentially unfavourable nature. These considerations had induced him to formulate the two following primary questions:

(1) Had a revolt occurred in the sense that a population, discontented with the conditions of existence afforded it by the local government, had decided spontaneously to oppose by armed force the demands of that government ? If a revolt of this nature had taken place, the blame for it might still be laid on the shoulders of the local government, whose administration might perhaps have been too severe; but the direct responsibility for the revolt could not be laid to its charge. If, on the other hand, the direct cause of the revolt was to be attributed, not to discontent alone, but also to the fact that the people were convinced that they were also threatened by a military attack on the part of their government, so that the only chance of safety for these people was to defend themselves by force, the government must be blamed for a want of tact in dealing with them, resulting in a conviction, which, however erroneous it might have been, had been the direct cause of the revolt. In this case, the responsibility would fall, at least in part, on the local government.

(2) If a revolt occurred, it was evident that the re-establishment of order demanded a suppression of that revolt in the common interest. If, however, that suppression was carried out in a manner as harsh as it appeared in the case under discussion, the government could only escape responsibility if it were clearly proved that measures of suppression of a less drastic nature were impossible, either from a military point of view, or from the point of view of its internal policy.

In view of the utter disproportion between the opposing forces, of which the Commission was aware, could the suppression in the manner in which it had been carried out reasonably be thought to be of the nature of a repressive action taken by police, or should it not rather be con-

sidered as an act of war ? Did the local government in its opinion consider itself faced with a section of the people for whom it was responsible in a state of discontent and insurrection, and whom it was necessary to bring back to reason and to public order, or had it thought that it was faced with an enemy army to which it was necessary, by using all the means and destructive forces at its disposal, to do the greatest possible amount of damage ?

Sir F. LUGARD explained the principle on which the questionnaire had been drawn up. It was not in his opinion the duty of the Mandates Commission to discriminate between the degree of responsibility to be assigned respectively to the mandatory Power or to the local administration of a territory. It was the mandatory Power alone which was responsible for the administration before the Commission. The Mandates Commission was ignorant as to the extent to which the mandatory Power had accepted the conclusions of the Commission of Enquiry, since no communication from the mandatory Power on this subject had been received. It was on this point that it must first satisfy itself. Two series of questions had been prepared, as had already been explained, to meet two hypotheses, viz., whether the South African Government accepted or did not accept the conclusions of the majority of the Commission of Enquiry.

The CHAIRMAN enquired of his colleagues whether Major Herbst should be asked to speak immediately on his arrival without being first questioned by the Commission. Perhaps the Mandates Commission would then be in a position to know from his statement whether his Government had accepted the report. M. van Rees, however, was of a different opinion. He considered that Major Herbst, having been sent to Geneva to reply to the Commission's questions, the Commission ought to take the initiative and ask him questions, on the basis of the two reports before it. What was the opinion of the Commission ?

The Chairman further was of opinion, and in this he was in agreement with M. Orts, that a preliminary question had first to be settled. The Commission must form an accurate idea of the exact gravity of the events which had occurred, and it might perhaps be led to take a less serious view of their gravity than had been assumed by public opinion. In this event, it would do a great service by stating this clearly.

M. ORTS explained his point of view. He was a member of a Commission entrusted with the duty of expressing an opinion regarding certain events. The information put at his disposal by the mandatory Power was resumed in a report of an enquiry to which was attached, for information, it seemed to him, a memorandum justifying the action of the administrator of the territory. He had read these two documents with attention and had not been able to find in them anything which enabled him to form an exact idea of the gravity of the events which had taken place. What had happened ? Had there been a massacre *en masse* of the native population, or had there been a somewhat severe repression of an insurrectionary movement ? or had an incident occurred of which public opinion had exaggerated the importance ? This was the question which he was unable to answer, and on which he required enlightenment.

The CHAIRMAN said that the point which the Mandates Commission would have to settle was the following: Should the Commission, as M. van Rees requested, begin by forming an opinion on the substance of the question, or ought it to wait until Major Herbst had made a statement on his own initiative ?

M. van REES suggested that the Commission should begin by taking note of the questionnaire prepared by Sir F. Lugard.

The CHAIRMAN asked whether the questionnaires of Sir F. Lugard and M. van Rees were the result of their common work in the Sub-Committee or whether they were two entirely distinct questionnaires.

M. RAPPARD said that the two members of the Sub-Committee had prepared certain questions separately. Those dealt with by M. van Rees were mostly of detail and drew attention especially to the apparent contradictions existing in the report. After a conversation, the two members of the Sub-Committee had agreed that the Chairman should ask questions of a general nature on the lines of those suggested by Sir F. Lugard, which constituted a kind of preparatory document for the information of the Chairman. The examination of Major Herbst could be completed by the addition of the questions to be found in the questionnaire drawn up by M. van Rees. It was further understood that in principle the questions should be put by the Chairman in the name of the Commission and not as coming especially from Sir F. Lugard or M. van Rees.

The CHAIRMAN asked M. Rappard to read point by point the questionnaire prepared by Sir F. Lugard.

M. RAPPARD began by reading the following explanatory statement, which contained a brief summary of the question as it stood at that moment:

"According to the Covenant, the Permanent Mandates Commission is to advise the Council of the League of Nations on all matters relating to the observance of the mandates. The third Assembly of the League of Nations, on September 20th, 1922, unanimously expressed the "confident hope that the Permanent Mandates Commission, at its next session, will consider this question and be able to report that satisfactory conditions have been established". We have, therefore, as far as the Bondelzwarts affair is concerned, the double responsibility.

"At the beginning of the third Assembly, Sir Edgar Walton, Delegate of the Union of South Africa, tabled the report of the Administrator of South-West Africa on the Bondelzwarts rising.

1922. Having informed the Assembly that his Government had decided to throw full light on this matter, and had therefore constituted an impartial Commission of Enquiry, he requested the Assembly to suspend judgment on it until it had been able to take cognisance of the results of the enquiry.

"The members of the Permanent Mandates Commission have received from the Secretariat of the League of Nations the report of the Commission appointed to enquire into the rebellion of the Bondelzwarts. At the same time, they received the memorandum by the Administrator of South-West Africa on the report of the Commission of Enquiry. The Mandates Commission has noted with great interest these documents and the affair to which they refer. It was decided to frame as follows the questions which it desired to ask the representative of the Union of South Africa on this subject:

Question 1.

"We have received the report of the Commission and M. Hofmeyr's reply, but we have no express intimation as to how far the views and findings of the Commissionare endorsed by the mandatory Power. Are you authorised by General Smuts tosay whether he endorses the findings of the Commission wholly or in part? "

M. ORTS proposed that this question should read as follows :

> "Is the representative of the mandatory Power authorised by his Government to state that the mandatory Power endorses either wholly or in part the findings of the majority of the Commission appointed by it to make an enquiry into the question of the Bondelzwarts rebellion ? "

He thought that it was of some importance, not only on this occasion, but also as a matter of principle, to state that the Permanent Mandates Commission was not interviewing the personal representative of General Smuts, but the accredited representative of the mandatory Power.

A discussion arose on the point whether the accredited representative of the South African Government to the Mandates Commission was Sir Edgar Walton, High Commissioner of the South African Union in London, or Major Herbst.

M. RAPPARD read various letters, the first dated London, June 20th, 1923, from the Secretary of the High Commissioner; the second dated Cape Town, June 22nd, 1923, from General Smuts; the third dated July 22nd, 1923, from the High Commissioner.

The CHAIRMAN thought that from these letters it appeared that Major Herbst was the duly appointed representative.

Sir F. LUGARD suggested that this should be the first question put, and the CHAIRMAN added that it was important that the Commission should have before it only one accredited representative, it being understood that he could be accompanied by experts.

M. van REES said that the Commission must consider the possibility that Major Herbst, while replying to its questions, might state that he was not authorised to reply in the name of his Government.

The CHAIRMAN reminded the Commission that on this point it would begin by obtaining information as to the powers of the representatives. Another supposition was, however, possible. A statement had been made to the effect that General Smuts would be present at the Assembly It was possible therefore that Major Herbst might say that General Smuts would desire to make official statements before the Assembly.

M. ORTS thought that this would not relieve the Mandates Commission of the duty which had been entrusted to it. If, before the end of this session, it had not been able to obtain the necessary information. it would state that it had had to accomplish its task without the help of an accredited representative of the mandatory Power, without the point of view of that Power having been communicated to it.

The Commission approved the text of the first question as amended by M. Orts.

Question 2.

> "If the Government of the mandatory Power endorses the report, as would be inferred by its transmission without comment :
>
> "*(a)* The Commission would ask that the Government of the mandatory Power should make a public pronouncement to this effect, since General Smuts' speech in the Cape Parliament gives the opposite impression."

Sir F. LUGARD proposed that the end of the paragraph, from the words "since General Smuts' speech", etc., should be deleted.

The Commission agreed to this amendment.

"*(b)* The Commission would like to know if any action has been taken in regard to the officers who are responsible."

Adopted.

"*(c)* Why is no intimation given as to why the remedial measures recommended by the Commission of Enquiry have not been carried out, or the extent to which they have been carried out ?"

M. d'ANDRADE noted that, in its present form, the question implied that the carrying out of the remedial measures had been prevented. The Mandates Commission, however, was entirely ignorant as to whether the remedial measures had been prevented, or whether they had been put into force, or whether it was the intention of the mandatory Power to put them into force.

Sir F. LUGARD agreed with this observation, and proposed that the English text should read as follows:

"The Commission desires to know why no information is given as to the extent to which the remedial measures recommended by the Commission of Enquiry have been or are about to be put into execution ?"

This text was adopted, together with the French translation proposed by M. Orts.

"*(d)* Whether the enquiry recommended by the Commission in paragraph 112, upon which the Administrator has made certain comments, has been carried out ?"

Adopted.

Question 3. "If the Government of the South African Union does not in general endorse the findings of the Commission, in what respect does it differ from them and is it its intention further to investigate the matter by means of a judicial enquiry, instead of by a committee of departmental officers, who are naturally in a very invidious position if they should find it necessary to report adversely ?

" In that case to ask Major Herbst:

"(*a*) If the Minutes of the evidence taken can be laid before the Commission;

"(*b*) If also, the report of the Native Reserves Commission referred to in the report can be laid before the Commission."

M. d'ANDRADE thought it would not be possible for the Commission to ask General Smuts if he accepted the report of the Commission of Enquiry.

Moreover, the Commission had already stated that the report and its conclusions seemed to indicate that the responsibility of the South African Government was deeply involved. It appeared to him that, according to the speeches delivered by General Smuts before the Cape Parliament, General Smuts was not of the same opinion and considered the report generally favourable to the Administrator of South-West Africa. The Prime Minister of the Cape did not know what had happened here. He could not be expected, therefore, personally to accept the conclusions of the majority of the Commission of Enquiry; to ask the mandatory Power to appear before the League of Nations was to consider it, up to a certain point, as an accused party. It was a principle of justice which was admitted in English and French law that the defendant should be warned of the possible results of what he would say. Still less, therefore, should he be asked to make declarations which, after what had taken place in the Commission, would amount to declaring that his Government was guilty.

M. ORTS thought that the question could be summed up as follows: the South African Government had announced at the Assembly that it would carry out an enquiry. The Mandates Commission asked it if it endorsed the conclusions reached by that enquiry. If it replied in the negative, the Mandates Commission asked it if it intended to make a new enquiry, since it apparently thought that the enquiry which had been made had not been satisfactory.

M. d'ANDRADE did not agree with this view. In deciding to undertake an enquiry, the South African Government had taken a definite decision. The matter was now before the League, and it was for the South African Government to ask the League what it wished to do now.

M. ORTS, in reply to M. d'Andrade, was of opinion that to take up such an attitude would amount, on the part of the South African Government, to declining all responsibility regarding the actions of the administration of the mandated territory.

M. van REES suggested that it would be sufficient to say: "Is it the intention of the Government further to investigate the matter by means of a new enquiry, or otherwise"? — without mentioning a judicial enquiry.

Sir F. LUGARD thought that it was unfortunate that departmental officials had been entrusted with making the enquiry.

M. van REES agreed, in principle, with Sir F. Lugard, but thought that the question should not be put.

Mme BUGGE-WICKSELL suggested that there was a third possibility, namely, that the South African Government should declare itself in agreement with the conclusions of the minority of the Commission of Enquiry.

M. ORTS said that in this case the Mandates Commission would have a basis for discussion provided by the mandatory Power. This was what was required.

M. d'ANDRADE believed that the Commission might confine itself to asking the South African Government whether, as a result of the enquiry which it had ordered, it had already taken any decisions.

Sir F. LUGARD proposed the following text:

> "If the mandatory Power does not endorse the findings of its Commission, in what respect does it differ from them, and is it its intention further to investigate the matter?"

Adopted.

Question 4.

> "Request to be made to Major Herbst:
>
> "(*a*) If the Minutes of the evidence taken can be laid before us?
>
> "(*b*) If the report of the Native Reserves Commission (Report of Commission of Enquiry, page 27, paragraph 131) and the instructions given by the Administrator to the Chief of Police, to which allusion is made on page 16, paragraph 65, of the report, can be laid before us?"

This text was adopted.

Question 5.

> "We call attention to the fact that there appears to be no direct authority accorded to the Administrator to undertake this serious punitive expedition. Did he receive General Smuts' authority to do so ?"

Following an exchange of views between M. d'ANDRADE, M. ORTS and Sir F. LUGARD, paragraph (*a*) was modified, on the proposal of M. ORTS, as follows:

> "Questions to be asked of Major Herbst:
>
> "(*a*) Was it within the powers of the Administrator to order a punitive expedition so serious without having referred the matter previously to the Government of the mandatory Power ? If not, was the expedition ordered or authorised by the Government of the mandatory Power ?"

Adopted.

Paragraph (*b*):

> "It is very evident that the farmers who flocked into South-West Africa after the war were too poor to pay their labourers. Were these labourers recruited or allocated to them by the Government? (paragraph 16 of the Administrator's report). When they were unpaid, did the Government take any steps to relieve them? Were they free to leave their employers ?"

M. ORTS observed that, according to the report, the salaries were paid, but that they were inadequate.

The paragraph was amended as follows:

> "(*b*) It is very evident that the farmers who flocked into South-West Africa after the war were too poor to be able to pay adequate salaries to the labourers. Were those labourers recruited or allocated to the farmers by the Government ? (Page 10, paragraph 40; page 11, paragraph 44, of the report of the Commission of Enquiry, and page 7, paragraph 16, of the report of the Administrator). When the salary was inadequate, did the Government take any steps to relieve them ? Were they free to leave their employers ?"

Paragraph (*c*):

"(*c*) Have any steps been now taken to define the general lines of a native policy *vis-à-vis* these farmers ?"

Following observations by M. ORTS, M. BEAU and Sir F. LUGARD, it was agreed that paragraph (*c*) should read as follows:

"Have any steps now been taken to define the general lines of a policy with respect to the natives in their relations with the small farmers ? (paragraphs 14 and 15)."

Adopted.

It was subsequently agreed that this paragraph should be included in the second questionnaire on remedial measures (see Minutes of 13th Meeting).

THIRTEENTH MEETING (Private)

held at Geneva, on Friday, July 27th, 1923 at 3.30 p.m.

Present: All the members of the Commission except the Count de Ballobar.

160. Minutes of the Meetings.

The Chairman said that the technical services of the Secretariat had fulfilled the expectations of the Commission, and that up to the present the Minutes had been very satisfactory. He asked what measures could be taken in order that the Minutes should be as complete and detailed as possible when the representatives of the mandatory Powers were heard. It would be necessary to ensure that the statements of the accredited representatives were reproduced exactly.

M. Rappard replied that the Secretariat was entirely at the disposal of the Commission for everything which it was materially possible to do. It seemed to him that it would be difficult to have a verbatim report, in view of the expenses incurred.

After an exchange of views, *it was decided that additional stenographers should attend the future meetings, and, at the request of the Chairman or a member of the Commission, certain parts of the discussion should be recorded verbatim.*

161. — Enquiry regarding the Bondelzwarts Affair of 1922: Examination of the Questionnaire *(continued)*.

Question 5 (c).

M. van Rees proposed the following text:—

> "What are the facts which enabled it to be inferred in the official documents that the action of the Bondelzwarts constituted an armed rebellion ?
>
> "Could not a conflict have been avoided if other measures had been taken by the administration, such as, for example, a personal interview with the Administrator ?"

M. Rappard asked the Commission whether it considered the documents containing the report of the debates in the South African Parliament would make it unnecessary for it to ask certain questions.

The Chairman, M. Orts and M. d'Andrade said that the official record of the Cape Parliament had not been officially communicated to the League of Nations, and this parliamentary document and others which were similar in character did not, form part of the papers before the Mandates Commission. The report of the Commission of Enquiry and the reply of the Administration were, at present, the only official sources of information.

Sir F. Lugard and the other members of the Commission agreed with this view.

M. Rappard reminded the Commission of what he had said at a previous meeting, that the official documents before it comprised the reports and the statements of the representatives of the mandatory Powers. All the other documents had been collected by the Secretariat at the request of the Commission. They possessed no official character.

The Commission adopted the form of Question 5 (c) proposed by M. van Rees.

On the proposal of Sir F. Lugard, *the Commission decided to confine itself to the Bondelzwarts affair and to put any questions concerning the affair of the Bushmen when the Administration report was under consideration.*

Question 5 (d).

M. van REES thought that it would be interesting for the Commission to find out what had been the numbers of the opposing forces.

Sir F. LUGARD pointed out that it was difficult to draw a distinction between the native fighting men and the rest of the tribe; it would be more useful to ask what number of rifles they possessed.

M. van REES pointed out that, according to M. Hofmeyr's report, the Administration only possessed a limited force to meet the Bondelzwarts.

The CHAIRMAN asked that the questions might be stated exactly.

M. ORTS drew up the questions contained in paragraph (*d*), as follows:

1. What was the number of the Bondelzwarts combatants ?
2. What arms had they and how many ?
3. What was the total strength of the forces set in motion by the Administration during the operations ?
4. What was the total loss on both sides ?
5. What was the total number of the Bondelzwarts population before and after the suppression of the revolt ?

On the proposal of Sir F. LUGARD, the Commission completed No. 4 by adding the words "including non-combatants".

The CHAIRMAN asked whether there were any further questions to be put before taking up the second part of the questionnaire.

M. van REES said that he reserved the right to put further questions when the representative of the mandatory Power was examined.

The CHAIRMAN thanked those members of the Commission who had prepared the questionnaire, which could be completed if circumstances demanded. When replies had been received to the questions included in the first part of the questionnaire, the Commission would draw up its conclusions, after which it could put other questions and make recommendations concerning the future.

The Commission adopted this view.

The Commission began the discussion of the second part of the questionnaire, as follows:

"We refrain from criticism in detail and ask whether in future:

1. The actions of the Administrator will be more directly circumscribed by the authority of the Union Government ?
2. The remedial measures will be effected without delay ?

On the proposal of the CHAIRMAN and M. BEAU, *it was decided to comply with the Assembly's recommendation by putting a question concerning remedial measures and measures of reform.*

Sir F. LUGARD explained that the phrase "the remedial measures" was intended to refer to those recommended by the Commission of Enquiry in Chapter VI of its report.

At the request of the CHAIRMAN, Chapter VI of the Commission of Enquiry's report was read. The Chairman pointed out that the Commission would have to determine whether the measures proposed were in accordance with the wishes of the Assembly, and whether they had been carried out.

Sir F. LUGARD submitted to the Commission the following summary of the remedial measures proposed by the Commission of Enquiry:

Creation of adequate native reserves.

Minimum wage and standard ration for labourers.

A strong Native Affairs department, with three or four good men working in native districts.

Restoration of some form of tribal self-government.

A sound system of native education (grants to mission schools, supervision by Government, native advisory education boards).

Reduction of tax on dogs and modification of regulations regarding branding irons.

All officials, including police, concerned in the unfortunate affair to be transferred elsewhere.

Abolition of credit system of trade and of barter system. Traders to pay in cash.

The Commission approved these proposals.

M. ORTS wished the Commission to add that there should be no reprisals.

The CHAIRMAN thought the Commission should ask what had been done to alleviate the sufferings of the women, old men and orphans.

M. RAPPARD put the questions in the following form:

What measures have been taken to relieve the sufferings of the victims, particularly of the women and children ? What proportion of livestock was returned to the Bondelzwarts ?

What general measures have been taken tending towards the restoration of the economic life of the tribe ?

Sir F. LUGARD wondered whether the South African Government could be asked to commute the sentence of Jacobus Christian by reason of his antecedents. He pointed out at the same time that no official report of the trial had as yet reached the Commission.

M. BEAU thought that the Commission could not take a decision on a particular case, and that it should confine itself to recommending a general leniency. This would not prevent it from putting questions to Major Herbst if he admitted that mistakes had been made.

The CHAIRMAN agreed with M. Beau, and the Commission adopted this view.

The above proposals were accepted in principle, subject to the final drafting of the second questionnaire (Annex 8a).

After an exchange of views, *the Commission decided to begin by examining the annual report and then to examine the report of the Commission of Enquiry.*

162. UNIFORMITY OF DUTIES ON SPIRITUOUS LIQUORS.

The CHAIRMAN drew the Commission's attention to the note drawn up by Sir F. Lugard on this very important question.

After an exchange of views, in which M. d'ANDRADE, M. ORTS, M. RAPPARD and Sir F. LUGARD took part, *the Commission adopted the following text for insertion in its report to the Council:*

> "The Mandates Commission, recognising that dissimilarity in the duties imposed on spirituous liquors imported into mandated territories gives rise to smuggling from contiguous territories, and may be a cause of friction:
>
> "Recommends that the Governments of France and Great Britain be requested to agree that the duties levied on spirituous liquors imported into the territories placed under their mandate in Africa should not be less than the duties in the adjoining territories on similar spirits of equal strength ;
>
> "And further that, in order to maintain this uniformity of duties, it is desirable that the two Powers should consult with each other from time to time with a view to assimilating their laws and regulations applying to the duties on import of spirituous liquors."

163. LOANS ADVANCES AND INVESTMENT OF PRIVATE CAPITAL IN MANDATED TERRITORIES.

The CHAIRMAN read a note in which M. d'ANDRADE had endeavoured to summarise the views expressed by the members of the Commission at the preceding meeting He thought the Commission might examine the note and, if it wished, modify it, with a view to inserting it in the report of the Commission to the Council.

Sir F. LUGARD approved the note, but asked whether mention should not be made of the case in which a loan was raised on the credit of a neighbouring colony of which, for fiscal purposes, it was administered as an integral part. This contingency emphasised the necessity of having two entirely distinct budgets. The mandatory Power in such a case would have no direct responsibility for the loan.

M. RAPPARD pointed out that the mandated territory might show a profit within a colony which showed a deficit. In this case the colony would profit from the mandated territory.

M. BEAU drew the Commission's attention to the last paragraph of the note and asked whether the mandatory Power ought to consult the League of Nations when it took securities for the guarantee of a loan granted to a mandated territory. He reminded the Commission that the French Government, in accordance with the procedure which it followed in regard to its colonies, proposed to guarantee a loan for the Cameroons without taking securities.

M. ORTS said that it was easy to understand that a State did not take securities in a colony. The case was different in a mandated territory which was not under its sovereignty. It was natural that a State which had made sacrifices for a mandated territory should be given credit for this, and that it should have the right to compensation which it could realise if its mandate came to an end.

The CHAIRMAN pointed out that a distinction should be drawn between two cases:

(a) The mandatory Power might guarantee a loan without taking securities ;
(b) The mandatory Power might guarantee a loan and take securities in the mandated territory.

M. d'ANDRADE thought that, in the first place (*a*), the mandatory Power could guarantee a loan without previously consulting the League of Nations. In the second case (*b*), a previous consultation was necessary.

Sir F. LUGARD thought that the use of the term "loan" instead of "grant in aid" presupposed the idea of repayment and of interest, whether specific security was demanded or not. A loan, moreover, might be made by a mandatory Power without placing it on the market.

M. d'ANDRADE said that advances of money should not be confused with loans.

The CHAIRMAN asked Sir F. Lugard if, following his argument to its logical conclusion, he wished the Council to concern itself with the payment of the interest and sinking fund of the loan.

Sir F. LUGARD did not wish to press the point. He thought that, even if a mandatory Power did not take securities when it guaranteed a loan, it nevertheless acquired a certain claim in the mandated territory.

The CHAIRMAN emphasised the difference between an advance which did not entail a sinking fund and which was generally on a short term, and a loan which was granted for a more or less extended period, and which generally implied the payment of interest and a sinking fund.

M. ORTS thought it would conduce greatly to the development of the mandated territories to lay down the principle that, in the event of a change of the mandatory Power, the former Mandatory had the right to be compensated for the investments which it had made, in the form of loans or advances, for which the new mandatory Power inherited an equivalent value, in the form of public works or permanent improvements. The mandatory Powers would then give their financial assistance much more easily to mandated territories which, otherwise, would be accorded much less generous treatment than the colonies.

Sir F. LUGARD thought that the League of Nations should be left to decide on the compensation, if any, to be given to the mandatory Power.

M. d'ANDRADE objected that it was extremely dangerous to encourage mandatory Powers to make advances of money secured on the mandated territories. In support of his statement, he quoted the example of the South African diamond-mines.

M. RAPPARD said that, if a mandatory Power were to resign its mandate, it would make its own conditions. It was doubtful whether it was advisable to consider the case of a mandate being withdrawn from a mandatory Power. To raise the question might cause irritation and uneasiness.

Sir F. LUGARD thought it was well to put the matter in the clearest terms. To take railways and other works as securities in a mandated territory was equivalent to annexation. Confidence must be created among private investors, who should be assured that their titles were secure and that their interests would be safeguarded.

M. van REES regretted that he was not in agreement with his colleagues. In his view, the Commission had embarked, at the moment, on a purely academic discussion. What necessity was there for the Commission to consider the rather hypothetical case of a mandatory Power giving up its mandate or of the mandate being withdrawn from it? Further, what was expected from the Council ? Was it thought that the Council could forbid the mandatory Powers, except with the previous approval of the League of Nations, to issue or guarantee under special conditions, loans which would be to the advantage of the mandated territory ? Such a decision would call for a more firm legal foundation than the mere appeal to the spirit of the mandate system could supply. M d'Andrade laid stress only on the provision of the eighth paragraph of Article 22 of the Covenant, which laid down that "the degree of authority, control or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council". But does this provision apply to the case in question ? There seemed to be very serious doubt on the point. In short, what was the original question be ore the Commission ? It was the following :— Was it permitted to a mandatory Power which, wishing to assist the territory under its mandate by financial credits, guaranteed a loan in favour of that territory, to take securities in the territory ?

It was evident that, if these securities should be of such a character and extent that the mandatory Power only had to appropriate at a given moment part of the territory or its principal resources, such a line of conduct might he considered as contrary to the very institution of mandates. Was there the least reason to foresee the case of a loan guaranteed under such conditions that the mandatory Power was exposed to a general reproach ? If not, why should the Commission consider such an improbable case ?

Did it result from the above that to take any other securities which had not this grave consequence would be permitted ? To this question, a general reply, whether affirmative or negative, did not at first appear possible. This was a further reason for not embarrassing the Council by the hypothesis put forward so long as the necessity for it was not practically demonstrated.

There remained the other hypothesis before the Commission according to which the mandatory Power would destroy the spirit of the mandate system if it claimed one day the total or partial repayment of its annual advances intended to cover the deficit in the budget of the mandated territory.

At a previous meeting the compulsory disinterestedness of the mandatory Power had been proclaimed, in the sense that it could not derive a direct profit from the territory under its mandate, but in connection with the discussion on the report on Samoa, it had been said that this disinterestedness could not go so far as the bestowal indefinitely of gifts to the territory. Suppose that, thanks to the advances made by the mandatory Power, the budgetary conditions of the mandated territory were completely changed, that instead of a deficit, there was a considerable surplus increasing annually, although the scale of taxes had been maintained and no reproach could be levelled at the mandatory Power on the ground that it had neglected its administrative obligations towards the territory. In this case, would the mandatory Power be acting contrary to the spirit of the mandates if it claimed the repayment of the advances made, repayment which, in the case under discussion, would do no one any harm ? It would be necessary here also to have a solid foundation for holding the contrary view, a foundation which up to the present was not established.

M. d'ANDRADE pointed out that the discussion had wandered. He reminded the Commission of the origin of the question, and of the conditions in which he had drawn up his report. The question was to know whether a mandatory Power had the right to guarantee loans by securing them on the mandated territory. It was necessary to determine the principle, because there would be no lack of cases where its application would be necessary.

M. van REES did not see on what basis this principle could be established.

The CHAIRMAN replied that the Commission based itself on the spirit of the mandate. The Covenant had established a system the terms of which had been defined by the Council. It was necessary to conform to these terms as long as the Council, which had the power to change the system, omitted to do so.

Sir F. LUGARD thought that the confidence of private investors would be gained if they could be given an assurance, by means of a formal statement in general terms, that their money would not be endangered.

The CHAIRMAN concluded that the note prepared by M. d'Andrade should be revised, taking into account the observations presented during the meeting. He requested M. d'Andrade and Sir F. Lugard to confer on the subject and submit a joint memorandum.

FOURTEENTH MEETING (Private)

held at Geneva, on Saturday, July 28th, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar. M. Matsuda, accredited representative of the Japanese Government, was also present.

164. Report by Count de Ballobar on Public Health in Mandated Territories.

M. Rappard informed the Commission that he had received that morning a long report (Annex 9) from Count de Ballobar on the question of public health. This report would be distributed. Meanwhile, an extract had been prepared relating to the Japanese report, which would be read when the accredited representative of Japan was heard.

165. Examination of the Report on the Administration of the Islands under Japanese Mandate in the presence of M. Matsuda.

M. Matsuda came to the table.

The Chairman thanked M. Matsuda for having responded to the invitation which had been addressed to him and welcomed him in the name of the Commission. The Commission was well aware of the value of the collaboration which M. Matsuda had already afforded the Commission in its work, and remembered the interest he had shown last year in informing it of the civilising work undertaken by Japan in the Pacific Islands.

M. Matsuda thanked the Chairman for his kind references. He would be happy to give any explanations which might appear to be necessary in connection with the report of his Government. He read the following supplementary note:

"(1) *Creation of a South Seas Bureau.*

"Up to April 1922, all the islands were administered by authorities under the orders of naval detachments. The last report contains explanations in regard to the matter. During the period from March to April 1922, the Japanese Government withdrew all these naval detachments, and since then the South Seas Bureau has assumed complete responsibility for the administration of the islands under the direct control of the Prime Minister of Japan. This is a fundamental reform which has enabled progress to be made towards a fully constituted and more active administration in conformity with the spirit of the Covenant, which has for its object the institution of a good administration for the natives who live at a long distance from the centres of civilisation. Since the institution of the South Seas Bureau, the police have assumed the duty of ensuring the maintenance of order and peace in the islands.

"(2) *Judicial Reform.*

"Three tribunals and a court of justice in the full meaning of the term have been created in the islands as a consequence of this reform. Hitherto there has been a distinction between the natives and non-natives as regards the right of appeal. Thanks to this reform, however, complete equality between these two classes of inhabitants has just been established.

"(3) *Primary Education.*

"The question of education has never been neglected by the Japanese Government in the administration of these islands. The subject was studied at some length in the last report. Since

then, however, an improvement has been made in the system of education, with a view to dealing more adequately with the present situation in the islands. There are two kinds of schools — primary schools for non-natives and public schools for the natives. Various regulations, more or less detailed, have been issued in this connection by the South Seas Bureau.

"(4) *Other measures taken with the object of improving the General Administration.*

"Among other measures, the following may be quoted:

(*a*) Improvements in the sphere of industry.
(*b*) Improvements in the Customs regime.
(*c*) Regulations for the appointment of natives as officials in the islands.

"I would draw your attention, in concluding this brief statement, to the question of slavery. This question was the subject of various enquiries on different points. As a matter of fact, as I had the honour to inform the Commission last year, there is no slavery in the islands. The subject is accordingly dealt with in less detail in the present report than in the report for the preceding year."

The CHAIRMAN thanked M. Matsuda for his statement. The Commission was happy to note the reforms introduced by the Japanese Government into its administration. The Commission now proposed to enter upon an examination of the report on the lines of the questionnaire. He would like to take this opportunity of expressing to M. Matsuda the satisfaction with which the Commission had noted that the Japanese report, like the Belgian report, was addressed to the League, and replied to the questionnaire.

M. van REES observed at the outset that the Japanese report had been arranged in an extremely practical way. Although the questionnaire had not referred to general administration, the report began by a very clear statement on that subject. There followed categorical replies to all the questions which had been put, and some supplementary notes. He would venture to hope, however, that the next report would be accompanied by the texts, orders and decrees mentioned in the report. The most important of these texts were not included in the present report, for example, those relating to the judicial system, the participation of the natives in the administration, and the duties of the Director of the South Seas Bureau. Could M. Matsuda say whether the powers of the Director were determined by any ordinance ? It was indicated in the report that legislative powers had been conferred upon him. It was further noted that six branches of the South Seas Bureau were scattered through the various islands, each under the orders of a special chief, who, like the principal Director, might issue orders of a legislative character.

M. MATSUDA thanked M. van Rees for the kind way in which he had referred to the Japanese report. The translation of the official texts must already have been despatched by the Japanese Government, but they had not yet arrived. The powers of the Director of the South Seas Bureau were set forth in the regulations for the organisation of the South Seas Bureau (No. 1 of the list which would be found at the end of the report). The Director discharged his duties under the direct control of the Prime Minister. Certain services — for example, posts and telegraphs — were attached to the Ministry of Communications ; Customs and currency questions fell within the province of the Ministry of Finance ; weights and measures within that of the Ministry of Agriculture and Commerce. The chiefs of the Bureau might, by virtue of their legislative powers, promulgate measures carrying as penal sanction a penalty of not more than one year's imprisonment, or a fine not exceeding 200 yen. It should be noted that when the islands were under the control of the naval detachments, there were six branches of the central administration, and that the Japanese Government had been content to maintain these six branches

M. van REES said that he particularly desired to know whether the Director of the Bureau derived his legislative power, which existed side by side with his executive power, in virtue of a legislative act of the Japanese Government, or whether he exercised it in virtue of special authorisation from the Prime Minister.

M. MATSUDA explained that, according to the Japanese code, persons might only be punished in virtue of a law. No administrative official could issue rules carrying penal sanctions. In certain conditions, however, this power was granted to high officials — for example, to the Governor of Formosa, or to the Governor of Korea, who had certain legislative powers. In the same way, the Director of the Bureau had received authority to promulgate certain legislative measures carrying penalties.

M. van REES, referring to the administrative organisation of the Bureau, as described on page 2 of the report, asked whether, apart from the six branches, all the other services enumerated (courts of justice, hospitals, etc.) were subdivisions of the central Bureau, or whether these same subdivisions existed in the islands attached to the six local bureaux.

M. MATSUDA replied that these various bureaux were directly responsible to the central Bureau.

M. van REES asked whether the regulations relating to the participation of the natives in the administration, mentioned on page 4 of the report, might be communicated to the Commission next year.

M. MATSUDA replied that, this text was No. 26 on the list and would be included in the documents sent by the Japanese Government and which had not yet arrived.

Sir F. LUGARD pointed out the Japanese authority extended over a considerable number of small islands. He would like to know how the judicial power was exercised in the various islands. The administrative officers had apparently no judicial powers, and the native chiefs had none. How were the petty cases in each of these various islands dealt with, since there existed only three local courts ?

M. MATSUDA replied that, of the 700 islands, scarcely 300 were inhabited. There was generally very little litigation in the islands, and cases hardly ever arose, except in the more thickly inhabited islands. There were three tribunals and one court. Each tribunal was competent for about a third of the islands, and dealt with cases which occurred within its sphere of action. When the question was not serious, the chief of the branch habitually intervened in the dispute in order to settle it amicably, under regulations which gave him certain powers (see No. 13 of the list). As regarded less grave offences, the "Regulations for Summary Decision" were applied (see No. 14 of the list).

Sir F. LUGARD asked whether it was to be understood, under the second paragraph of page 1 of the report, that the Director of the Bureau might impose a punishment of a year's imprisonment outside the jurisdiction of the tribunals. In other words, could he not only issue ordinances carrying penalties, but also inflict the penalties ?

M. MATSUDA replied that the Director had the legislative power, but not the judicial power.

Sir F. LUGARD asked whether the Japanese authorities had found it possible to confer any small powers on the local native chiefs.

M. MATSUDA believed that the position had not yet developed to this extent, but natives were beginning to be appointed to certain duties. The texts relating to the appointment of native officials would be found in the documents which were on their way from the Japanese Government.

Slavery.

Mr. GRIMSHAW noted that the report on page 6, under the heading "Domestic Servants and their Employers", replied completely to a question put last year by the Commission. The Commission, in asking this question, desired to be assured on a further point, namely, whether there existed in the islands anything in the relations between employers and servants which corresponded to the system found elsewhere, notably in Hong-Kong, and known as the mui-tsai system. The mui-tsai system was not, properly speaking, a system of contract, but was a system of adoption of young girls under conditions which might tend towards abuses.

Sir F. LUGARD queried the accuracy of this description.

M. MATSUDA replied that, not only did slavery not exist in any form in the islands, but there was no system comparable with mui-tsai.

Labour.

Mr. GRIMSHAW noted that the report on page 6 gave a combined answer to the first three questions in the questionnaire, explaining why it had not yet been thought necessary to consider the application of the conventions or recommendations of the International Labour Conferences. The Commission last year had been informed that the South Seas Bureau was taking, or was about to take, the decisions of the Conferences into consideration. As Japan had ratified certain conventions of the Conference, it was to be hoped that the decisions in question would not pass unnoticed by the South Seas Bureau and that the practice of sending these decisions to the Bureau would still continue.

M. MATSUDA said he remembered that the question had been raised last year. There did not yet exist in the islands any cases in which the conventions or recommendations of the Conferences might be suitably applied, in spite of the utmost goodwill on the part of the Japanese Government. Perhaps an occasion might present itself in future.

There was only one exception, the sugar industry. This seemed to be developing fast, and the Government was already considering whether it might not be advisable to give effect to certain conventions and recommendations of the Labour Conferences.

Mr. GRIMSHAW said that the third point in the questionnaire dealt with quite a different subject from the first two, namely, the protection of free labour. It would be well, in order to avoid all ambiguity, to have a special reply on this point, especially as there actually existed regulations governing conditions of labour in the mines on Angaur Island, which had appeared

as an annex to the report of last year. It would be advisable, when the questionnaire was revised, to guard against the possibility of any ambiguity arising in future. In regard to the regulation of labour in the mines (South Sea Island Mining Regulations), were there not other provisions for the protection of the workers than those to be found in Article 9? (provisions against injury, incapacity or death).

M. YANAGHITA said that it was quite clear from the report that the workers enjoyed many other guarantees.

Mr. GRIMSHAW admitted that this was clear from pages 8-10 of the report, but it was not indicated what authority had issued the regulations, or where they were to be found.

M. YANAGHITA said that the regulations did not generally apply to official establishments like the mines of Angaur.

The CHAIRMAN thought that this point should be cleared up.

Mr. GRIMSHAW desired to know whether, except in cases of injury or death, special provisions were made; for example, provisions in regard to unhealthy industries, the duration of the hours of labour, night work, etc.

M. MATSUDA replied that these questions were not dealt with in formal regulations, but there were for each official establishment very detailed internal rules for every kind of work. These internal rules contemplated every kind of assistance for workers, but this assistance did not seem to be provided for by formal regulations.

The CHAIRMAN, in conclusion, said that M. Matsuda might be able to have inquiries made on the subject. If such regulations existed, Mr. Grimshaw would be satisfied, and the International Labour Office might note the text of the regulations. If there were no such regulations, the Commission would enter certain reserves which would be brought to the knowledge of the Japanese Government. The Chairman further desired to know whether, outside the phosphate mines, which were exploited by the State, there were any other private industries except the sugar industry.

M. MATSUDA replied in the negative.

Mr. GRIMSHAW observed that the report did not clearly indicate whether there was only one sugar factory in the islands. He presumed that the factory in question was a factory for the manufacture of sugar from the cane. This was a seasonal industry, in which the workers were called upon to labour night and day. Were these workers natives, or were they imported for the season ?

M. MATSUDA replied that the sugar factories were situated in the island of Saipan. The workers were both natives and non-natives.

Mr. GRIMSHAW pointed out that this industry usually employed women and children. He noted that regulations were promised governing conditions of labour in that industry. Could the Commission be assured that these regulations would include special measures for the protection of women and children ?

M. MATSUDA drew the attention of the Commission to the point mentioned on page 6 of the report. The Government there gave a categorical assurance that it would apply the labour conventions in the event of there being occasion to apply them. Any anxiety on the subject, therefore, seemed to be inconceivable. He further asked the Commission to await the arrival of the documents sent by his Government, among which were the texts of the regulations.

Mr. GRIMSHAW recalled in this connection that certain reforms for the protection of women and children had been adopted recently in Japan. These reforms had everywhere been welcomed. It was to be hoped that the possibility of their application to labour in the islands would be kept in view. As regards indentured labour, would M. Matsuda indicate in what industries indentured labourers were employed ?

M. MATSUDA replied that they were employed in the sugar industry. This industry was still in its infancy, and for this reason the question had not yet been finally regulated. The workers were Japanese.

Mr. GRIMSHAW said that Article 3, Section 7, of the regulations for immigrant labourers, attached as an annex to the previous report, had dealt with the introduction of the form of contract used in connection with indentured labour. It would be interesting to have a copy of the contracts thus established. Section 7 said that the contracts should lay down the "methods of praise and punishment" in matters concerned with the prosecution of labour. He would like to ask what powers of punishment were open to an employer acting on his own authority.

M. MATSUDA explained that these provisions were often to be found in the internal rules of certain establishments. There was no question of corporal punishment, but merely of deductions of salary, etc., for disciplinary purposes.

M. YANAGHITA, replying to the last question of Mr. GRIMSHAW, explained that Article 11 of the regulations for immigrant labourers (which excepted from the provisions of the regulations persons coming to the islands in order to fulfil official duties) affected officials and not workmen in the State mines.

Traffic in Arms.

No observations.

Manufacture of and Trade in Alcohol.

Sir F. LUGARD expressed a hope that the next report would give more detailed statistics.

M. MATSUDA replied that attention would be paid to this request.

In reply to further questions from Sir F. LUGARD, M. MATSUDA said there was no manufacture of alcoholic drinks in the islands. There were small imports from Japan. The limit of strength for imported intoxicants was very low, only 7 degrees. The report further indicated (page 11, No. 4) that only very weak fermented drinks were admitted, such as beer, wine, and sake, and that only the weakest kind of sake was imported. The next report might specify the strength of the alcohol.

Liberty of Conscience.

No observations.

Military Clauses.

No observations.

Economic Equality.

M. ORTS pointed out that, according to the terms of the report, there were not any derogations from the principle of economic equality as regards concessions, land tenure, mining rights, taxation and Customs. It should be noted from the outset that the mandate under consideration was a C mandate, a category for which the maintenance of economic equality was not compulsory. Seeing, however, that there was an administration of the mines in the islands, and that this administration appeared to exploit all the existing phosphate deposits, how was the passage in the report to be understood in which it was stated that there did not exist any derogations from the principle of economic equality so far as the mines were concerned ?

M. MATSUDA replied that the phosphate mines of Angaur had hitherto been exploited by the Government. This was the only Government industry. If this enterprise came within the scope of the chapter on "mining rights", it would constitute the only exception.

Replying to a question of M. BEAU, M. MATSUDA stated that, after enquiry, Japan had ascertained that those mines were a private German enterprise, and not a State enterprise. Japan had bought the mines, and the sum had been paid to the reparations account, as indicated in the chapter on the budget.

Sir F. LUGARD called the attention of M. Matsuda to the declaration made by his Government when it accepted the mandate, according to which it recognised the justice of the principle of economic equality as well for the C mandates as for the other mandates. Was it to be inferred that Japan intended to apply the principle of economic equality to the territory with the mandate for which she had been entrusted ?

M. MATSUDA replied that his Government had made a declaration which had been accompanied by reservations, and that it was in conformity with these reservations that it had organised an administration in the islands for which it had received a mandate.

The CHAIRMAN thought that it should be clearly stated once more that the C mandate did not require economic equality. Sir F. Lugard was merely reminding the Commission that the Japanese Government had declared itself in favour of the principle of the "open door" and was asking whether Japan applied this principle or whether it insisted on the rights which it was recognised to possess.

M. MATSUDA replied that this declaration did not merely concern the question of economic equality, but also the interpretation of paragraph 6 of Article 22 of the Covenant. The question put by Sir F. Lugard was somewhat different. M. Matsuda was not authorised to make an official declaration on this point. He therefore wished to reserve his statement.

Sir F. LUGARD said he had no intention of disputing the fact, but he would be glad if M. Matsuda could refer the matter to his Government, and give later a definite answer to the Commission on the question which had been raised.

M. RAPPARD suggested that this discussion could not give rise to any misunderstanding. Everyone was agreed in recognising that the Japanese Government was in no way obliged to apply the principle of economic equality, since it was only bound by the terms of its mandate. The only question was to know whether the Japanese Government freely applied, so far as it was concerned, a principle the justice of which it had proclaimed, or whether it confined itself to executing faithfully the terms of the mandate, which was all that it could be required by the League to do.

Sir F. LUGARD said that it seemed that the Japanese Government was, in fact, going beyond the terms of its mandate, since it declared in its report that it had no objection to the principle of economic equality.

M. ORTS thought that there was, nevertheless, an exception to this principle as regarded the phosphate mines.

M. MATSUDA said that this appeared to be the case if the exploitation of the mines were regarded as a monopoly. It was a question of interpretation.

The CHAIRMAN, in order to simplify the discussion, put a concrete case. Suppose a foreigner, an Italian, for example, came to the islands, and discovered a copper-mine or a phosphate deposit. In the first case there would be no competition with the Japanese Government, and the concession would be granted without difficulty. In the second case, would there be competition with the Japanese Government ? What, in that event, would happen ?

M. MATSUDA replied that in that case the regulations in regard to the mines would apply, in the sense that anybody might address a request to the Japanese Government with a view to exploiting his discovery (see, in the previous report, the South Sea Islands Mining Regulations).

Sir F. LUGARD said that, without going into details, or questioning whether there was a monopoly or not, the best course would be for M. Matsuda to ask his Government whether it, in fact, applied of its own free will the principle of the "open door", it being understood that the Japanese Government was free to make any exception as regards the mines which it might desire.

M. MATSUDA said that he was able at once to declare that it was not the intention of his Government to establish a monopoly in any shape or form. The case in regard to Angaur was different. This was an industry which already existed under German rule, but it was not possible to make any request whatsoever to the Government with a view to the exploitation of the mines or of any industries.

M. BEAU thought that M. Matsuda's statement was entirely satisfactory, particularly, as M. Orts had said, as economic equality was not obligatory. After the explanations which had been furnished, it would not be advisable for the Commission to ask the Japanese Government to confirm the declarations which it had made at the time of the Peace Treaty. The Commission had only to concern itself with the mandate as defined and entrusted to the Japanese Government.

M. RAPPARD said he had the text of the declaration made by the Japanese Government to the first Assembly. He gave a brief account of the discussion on the C mandates on that occasion and read the declaration. It appeared that the Japanese Government had not formulated an undertaking to apply the principle of economic equality. It had simply, in pursuit of this principle, made a reservation in favour of the Japanese who desired to trade with other territories under the C mandate.

M. d'ANDRADE noted that economic equality was only stated to exist in regard to the five points indicated in the report.

M. RAPPARD said that the report faithfully answered the enquiries contained in the questionnaire which asked whether there were any derogations from the principle of economic equality in regard to these five points.

The CHAIRMAN, in conclusion, said that, according to the declarations of M. Matsuda, there was, in effect, economic equality, and he did not think that M. Matsuda could be asked to put to his Government the question suggested by Sir F. Lugard.

Education.

Mme. BUGGE-WICKSELL thought that the Japanese Government should be congratulated on this part of its report. The total number of the pupils was high, considering the fact that the territory was split up into several hundreds of islands. She wished to ask for certain supplementary information, with a view to the report which she would make next year.

M. MATSUDA, replying to the questions put to him, said that all the teachers in the territory were not Japanese. There were also 18 native advisers, but there did not as yet exist any regulations in regard to their training.

There were no normal schools. Three-year courses were given, followed by supplementary courses of two years. The question of normal schools would arise later. Children learnt to read and write. The Commission would find details in the texts sent by the Japanese Government. The mission schools were sometimes situated in the same localities as the public schools. The curricula of the mission schools would be given in next year's report.

Following an observation by Sir F. Lugard on the size of the item in the budget for education as compared with the total budget, the CHAIRMAN asked whether the salaries paid to the teaching staff were included in the expenses of the administration.

M. MATSUDA replied that these salaries were included in the chapter on "Salaries".

The CHAIRMAN expressed a wish that the expenditure on education should be shown in a clearer and more detailed manner in the next budget. The Commission, sure that the development of the population of the islands would follow step by step the efforts of the Japanese administration, was anxious to form an exact idea of the praiseworthy efforts of the authorities.

Public Health.

M. RAPPARD read the passage in the report of Count de Ballobar relating to the health position in the territories under Japanese mandate (Annex 9).

Sir F. LUGARD referred to the large number of cases of venereal disease among the Japanese in the islands as compared with the native population, and asked what were the number of the population of each and the reason of this excessive disease among the non-natives.

M. MATSUDA, in reply to the above question of Sir F. Lugard, said that the population of the islands was composed as follows: 3,406 Japanese, about 50,000 natives, and 64 foreigners.
The next report would, if possible, give detailed indications on the subject of venereal disease.

Land Tenure.

M. van REES said that on this question he found only one ordinance, dated 1916, which had been reproduced in the previous report, and where no mention was made of domain lands. Were there any other ordinances on this subject ? In the second paragraph of chapter X, page 15, of the report, it was stated that all the lands which, in accordance with old custom, did not belong to any natives or native communities were considered as belonging to the State. Was this provision to be found in any existing ordinance ?

M. MATSUDA said that undeniably land tenure had not yet been well organised in the islands. Knowing that the Commission would wish to have information on this subject, he had prepared the following note:

"Article 3 of the decree for the regulation of judicial affairs in the South Sea Islands (26th Imperial Decree of Japan, put into force on March 1st, 1923) is in the following terms:

> "As regards landed rights in the islands the old customs are applied pending a new regulation of the question. Landed rights are not regarded as registered pending a new order.

"In all that concerns land belonging to the State, and lands belonging to individuals, we have inherited the German system. Present conditions require a complete investigation into landed rights, a determination of the lines of demarcation of land, and surveys. It is hoped that details will be available before long. Meanwhile, as the natives have little sense of land ownership, and are apt to be deceived, Ordinance No. 3 for the civil administration of the South Sea Islands (January 1916) contains the following provision, with a view to protecting the landed rights and interests of the natives:

> "Persons other than the authorities are forbidden to conclude any contracts for the purchase, sale, alienation or mortgage of land owned by natives.

"The total area of the islands is 163 square ri (approximately 2,500 square kilometres), of which nearly 30 per cent. can be cultivated. More than half the land of the islands is possessed privately by individuals in the islands. As regards the right of land ownership, the natives attach the greatest importance to useful vegetation, such as cocoanut-trees. Property in this vegetation was, therefore, the first to be recognised, and property in the land came afterwards. Thus, land where useful vegetation is found has almost always become the property of the natives.

"Further, there are in the islands of the Ponapé and Parau certain lands possessed by tribes, the disposal of which is subject to the authorisation of the authorities and of the chief of the tribe, but in the island of Parau there was an exception under this head, that is to say, it was possible to convert lands belonging to the tribe into private properties by cultivating them, and for this purpose the authorisation of the chief was not necessary.

"In the Marshall Islands, lands other than those in possession of the whites were almost all the property of the big chiefs of the tribe, and the natives had only the right to cultivate them."

M. van REES thanked M. Matsuda for his statement, from which it appeared that there were domain lands. In what way, however, was it possible to define the State to which they belonged? There was only one State, the mandatory State, which was the Japanese Empire. In the Imperial Decree of which M. Matsuda had spoken, was it implied that these lands belonged to the Japanese Empire? It was that Empire which was the State concerned and there was no other State. On the one hand, there was the mandated territory, on the other hand the mandatory State. It was this question of the definition of the State which was doubtful.

M. MATSUDA replied that domain lands were in existence, that was to say, lands belonging to no one which belonged to the Japanese Government in conformity with the system of mandate. The question was not very clear and might perhaps be examined. It could be said that these lands belonged to the Japanese Government or to the Japanese Empire by reason of the mandate conferred on it.

M. BEAU noted that the same question arose once more. This question always arose in connection with the Japanese, British or French Governments who held State domains as mandatory Powers.

The CHAIRMAN asked if the Commission would be right in concluding that the revenues and profits obtained from the phosphate monopoly should not go to the Japanese Empire but should be expended on the administration of the mandated territory.

M. MATSUDA replied that they should be expended on the administration of the islands.

The CHAIRMAN wished that note should be taken of the question which had been raised and of the reply made. The matter concerned the Japanese Empire in its capacity as mandatory Power.

Moral, Social and Material Welfare.

No observations.

The documents which M. van Rees had desired to see were to be found in those which would arrive from the Japanese Government.

Public Finance.

Sir F. LUGARD noted that the sale of phosphates had resulted in receipts amounting to 1,064,000 yen; that there was in addition a supplementary allocation of credits in the Japanese budget amounting to 1,939,960 yen and that this sum was to be found in its entirety in the expenditure tables under the heading "phosphate, mining and other industrial interests bought". Sir F. Lugard wished to know why the purchase price appeared both on the receipts and on the expenditure side. Were the mines the property of the mandated territory like Crown lands, or were they the private property of ex-enemy subjects and therefore sold for reparations account?

A long discussion took place on this point between the CHAIRMAN, Sir F. LUGARD and M. MATSUDA.

M. MATSUDA gave details regarding the present situation of the phosphate mines. These mines had been German property. The Japanese Government had up to now controlled them as an exceptional war measure and this year steps had been taken to liquidate the property. The Japanese Government had expended a special sum of about 1,930,000 yen to buy back this property. This sum would be regarded as having been produced by the liquidation of German property in conformity with the Treaty of Versailles.

The CHAIRMAN thought that it was not the Commission's duty to find out whether this sum should be paid over to the reparations account or should go elsewhere. The Commission would have to ascertain whether the absolute owner was now Japan, the Japanese taxpayer or the Empire of Japan in its capacity as mandatory Power.

M. RAPPARD asked whether it should be understood that, as regarded the revenues of the mandated territory, this sum had never been actually paid in cash and merely represented the transfer of the property itself. In that case an equivalent sum would have been taken from the budget of the mandated territory and devoted by the Japanese Government to the re-purchase of German property.

The CHAIRMAN thought that nothing should appear in the budget. With the sum in question the credits possessed by all the Allies had been liquidated and put to the credit of the reparations account. Nothing, however, had been paid in actual cash into the budget of the administration of the islands under mandate.

M. ORTS pointed out that this sum had merely appeared on the books. There had been no actual transference of cash. With regard to the compensation account, an actual transference of cash only occurred when there was a balance in favour either of Germany or of Allied subjects.

The CHAIRMAN noted that the point of interest was the following: if this sum were deducted from the total budget of almost 2 millions, the Japanese Government's contribution of 3,300,000

yen would become a very large one; moreover, the subsidy to navigation was very large (1,050,000 yen). A large part of this money would return to Japan because undoubtedly Japanese companies had carried on the working of the service. It remained for the Commission to elucidate the question as to who was the owner of the phosphate mines. Was it the mandatory State, was it Japan ? If the mines had been bought by individual persons, whether they were Japanese, English, Italian, etc., the situation would be clear. The buyer in this case, however, was the Japanese Government.

M. MATSUDA said that in his opinion the question was a difficult one to solve. It was a fact that the Government paid an annual subsidy, approved by the Chamber, for the administration of these islands. The difficulty was to interpret the nature of this expenditure. If the possibility were considered that Japan would one day abandon its mandate and that it would pass to another Power, the question ought to be discussed and settled.

The CHAIRMAN asked if this was M. Matsuda's personal opinion.

M. MATSUDA replied in the affirmative, and added that the question arose not only on the Japanese mandate but also on the mandates of all the other Powers.

The CHAIRMAN said that it was for that reason that he had put the question, as he had put it to all the accredited representatives of the mandatory Powers. The Commission was not discussing the credits voted by the Japanese Chamber as contributions towards the expenses of the administration of the mandated territory. This formed part of the execution of the mandate. The discussion originated from the point where the Japanese Government had become the owner of the mines. These mines could have been bought by an individual. Instead of this, the Treaty of Versailles had given the possibility of purchasing them to the Japanese Government. This Government had taken advantage of that possibility. The question was therefore as follows: Who was the owner — the mandatory State or the Government ?

Sir F. LUGARD thought that the case stood as follows: If the phosphate mines were the property of the German Government before the war, they became (like Crown lands, etc.) the property of the mandatory Power in its capacity as Mandatory, and not of the Japanese Empire. If, on the other hand, they had been the property of private German subjects, they would, according to the Treaty of Versailles, be sold, and the proceeds would be paid to reparations account. The amount realised was of no interest to the mandated territory. In this case the Japanese Government was the purchaser.

Whether it was advisable that the mandatory Power should become the private owner of important assets in the mandated territory was a separate question. As owner of the property for which he had paid 1,939,960 yen, the Japanese taxpayer was entitled to the profits, and the duty of the Mandates Commission was merely to enquire whether, as private owner of the estate, the Government paid all taxes which any other owner would pay. The Commission found, however, that the profits were credited to the local budget.

It was agreed that the discussion should be continued at the afternoon meeting.

FIFTEENTH MEETING (Private)

held at Geneva, on Saturday, July 28th, 1923, at 3.30 p.m.

Present: All the members of the Commission except the Count de Ballobar.

M. Matsuda, accredited representative of the Japanese Government, was also present.

166. Examination of the Report on the Administration of the Islands under Japanese Mandate in the Presence of M. Matsuda *(continued)*.

The Chairman referred to the question which had been put to M. Matsuda at the morning meeting: Who was the owner of the phosphate mines: was it the mandatory Power or the Japanese Empire ?

M. Matsuda said he had found nothing in the documents at his disposal which would enable him to reply to this question. He did not know whether the Japanese Government had already come to any conclusion on the question of principle.

The Chairman said that this was a question of fact and not a question of principle. The question of principle would arise later.

M. Orts pointed out that the budget indicated a receipt from the sale of phosphates. He asked whether they were sold to traders, to persons who used them for agriculture, or to a government selling agency.

M. Matsuda replied that the phosphates were sold to wholesale traders and not to a government agency.

M. Orts asked whether the phosphates were used on the spot, or whether they left the territory.

M. Matsuda replied that the wholesale traders sold the phosphates to retail traders, and that a large part of the phosphates left the territory.

M. Orts observed that the Customs statistics for the year 1921 did not indicate that the phosphates were articles for export, although the receipts for 1922 showed more than a million yen derived from the sale of phosphates. It had been said, however, that the exploitation of the phosphates was not a new but an old exploitation, which already existed therefore in 1921.

M. Matsuda explained that the phosphates did not figure in the list of exports for the year 1921, but that the production had always been the same.

Sir F. Lugard observed that, whether they were sold on the spot or not, the phosphates were in any case exported. He asked whether export duties were levied upon them.

M. Matsuda replied that all duties had been abolished as from 1922. He said he would ask his Government for supplementary information by telegram.

M. Orts thanked him for this declaration.

The Chairman drew attention to the imports and exports of sugar. He wondered what was the reason for such large imports into a country which was itself a considerable producer, especially as the cost of transport was so high.

M. Matsuda said he would ask for details from his Government[1].

The Chairman asked that in the next report the budget might be as complete as possible, and accompanied with schedules for preceding years, which would enable useful comparisons to

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[1] For additional information on this point and on certain others raised during the examination of the report on the Japanese mandated territories see Annex 10.

be made. In this way the Commission would have less questions to ask the accredited representative of the mandatory Power. It would also be useful to have details concerning the economic life of the territory, where it was observed that the natives paid almost no taxes, possibly owing to their poverty.

The expenses of administration appeared to be very high in comparison with the total budget. This perhaps was due to the large number of the islands. Finally, it would be interesting to have information on the relations between the administration and the natives.

M. MATSUDA explained that the great distance of the islands increased the cost of administration. Besides ordinary salaries, it was necessary to pay travelling and other expenses.

The CHAIRMAN asked what became of the sum of 20,000 yen which figured on page 18 of the report as a subsidy in aid of enlightenment of natives. He added that it would be useful for a map, as detailed as possible, to be attached to the next report.

M. MATSUDA explained that the sum in question was intended for subsidies for missionaries.

The CHAIRMAN emphasised the necessity of making the budget as detailed as possible. Further, as the report for 1922 contained budgetary provisions, it would be necessary next year for the accounts to be submitted to the Commission. He asked whether the Japanese Government would be able to send its report next year before May 15th at latest, in order that the Commission might meet on June 15th.

M. MATSUDA thought that this could be arranged without difficulty, but he wondered whether the report could be made complete before the end of the year 1923.

The CHAIRMAN observed that the Japanese Government would have four and a half months, dating from the closing of the accounts.

M. MATSUDA presumed that the decision of the Commission as to the final date would be communicated in advance to the Japanese Government.

The CHAIRMAN said that the date would be finally fixed at the plenary meeting, when all the accredited representatives were present.

He thanked M. Matsuda for the information which he had kindly given the Commission, and hoped that he would be able to be present at the plenary meeting.

M. MATSUDA informed the Commission that it would be impossible for him to be present at the plenary meeting. He thanked the Commission for the kind welcome which it had accorded him. He was happy to note that the efforts of the Japanese Government were appreciated by the Mandates Commission, and also by the entire world.

M. MATSUDA withdrew.

167. FRONTIER BETWEEN THE BRITISH AND FRENCH CAMEROONS.

The CHAIRMAN opened a discussion on a note drafted by Sir F. Lugard (Annex 11).

M. BEAU said he had no observations to make, except that the French Government had hitherto had no knowledge of the subject.

Sir F. LUGARD observed that there was a page on this question in the report on the British Cameroons, and that supplementary information might be requested from the representative f the mandatory Power when he appeared before the Commission.

The CHAIRMAN said that, before formulating a proposal, the Commission would await the reply of the representatives of the mandatory Powers.

M. ORTS proposed an amendment to the last paragraph of the recommendation.

The amendment was adopted, the note was approved, and the terms of the recommendation were formulated as follows:

> "The Mandates Commission notes the statements made, in the report on the British Cameroons, to the effect that the frontier determined by the British and French Governments in the Cameroons has in some cases intersected tribal areas, and thereby inflicted great hardship on the native population ;
>
> "Considering that such a state of affairs (if the complaints are well founded) would be unjust to the natives, and contrary to the spirit of the mandates :
>
> "Recommends the Council to invite the two interested Powers to examine whether in the interests of the natives it would be practicable to readjust their common frontier."

The CHAIRMAN said that this recommendation would only be inserted in the report to the Council after the Commission had heard M. Duchêne and Mr. Ormsby-Gore.

168. EXTENSION TO THE TERRITORIES UNDER MANDATE OF SPECIAL INTERNATIONAL TREATIES APPLICABLE TO THE COLONIES AND PROTECTORATES OF THE MANDATORY POWERS.

The CHAIRMAN opened the discussion on a note drafted by M. Beau, Sir F. Lugard and M. Orts.

Sir F. LUGARD asked what was the exact meaning of the words "special treaties" in the English text which he had not seen before.

M. ORTS explained that these words applied to treaties concluded between two States, as opposed to general treaties to which a number of States were party. The Convention of St. Germain, for example, as well as the Berlin and Brussels Act, were general treaties.

He added that frequently it was not possible to find equivalent legal terms in the French and English languages.

The CHAIRMAN recommended the Secretariat to see that the English and French texts were strictly in conformity. He asked the Commission whether it accepted the memorandum submitted to it.

M. RAPPARD drew the attention of the Commission to the extreme importance of the recommendations and suggestions which it formulated. The Council submitted these texts to the relevant departments of the various Ministries of Foreign Affairs, where each word was very carefully examined.

M. ORTS proposed to modify the text of paragraph 1. He would prefer to say "it appeared to the Commission," rather than "the Commission has recognised."

The CHAIRMAN suggested that Article 8, which figured in all the mandates except the C mandate, and which served as a point of departure, should be mentioned in the first paragraph.

The Commission approved this suggestion.

M. RAPPARD wondered whether the general formula of the recommendation might not entail consequences incompatible with the provisions of the Covenant. It might happen that, in applying a treaty concluded between a mandatory Power and a given State, the latter might secure advantages in a territory under mandate as compared with other States. He also observed that it might be understood from the present text of paragraph 5 that no practical conclusion had heretofore been drawn from the principle laid down in Article 127. As a matter of fact, the principle had been applied in that passports had already been delivered. He proposed to say: "Considering it advisable to give full pratical effect to the principle," etc.

The amendment was adopted.

M. ORTS and Sir F. LUGARD submitted amendments to paragraph 1 and to the final recommendation.

On the proposal of the CHAIRMAN, the Commission invited M. Orts to redraft the memorandum, taking into account the opinions and suggestions put forward during the meeting.

169. LOANS, ADVANCES AND INVESTMENTS OF PRIVATE CAPITAL IN MANDATED TERRITORIES.

The CHAIRMAN opened a discussion on a note drafted by Sir F. Lugard and M. d'Andrade. The text of the document was read.

On the proposal of M. van REES, and in view of the fact that the French translation had not been communicated, *te Commission decided to adjourn this to a later meeting.*

The CHAIRMAN said that the questions raised by the note were of capital importance, for they were at the basis of the system of mandates.

SIXTEENTH MEETING (Private)

held at Geneva, on Monday, July 30th, 1923, at 10 a.m.

All the members of the Commission were present, except the Count de Ballobar. M. Forthomme, accredited representative of the Belgian Government, was also present.

170. Examination of the Report on the Administration of Ruanda and Urundi in the presence of M. Forthomme.

The Chairman welcomed M. Forthomme, whose experience in the questions with which the Commission was called upon to deal was well known. He thanked the Belgian Government for facilitating the task of the Mandates Commission by associating with its work one who was not only an expert in the questions concerned, but who also regarded them from a lofty point of view, corresponding completely with the spirit which guided the Commission. He hoped that the Commission's task would be pursued in complete co-operation with the Belgian Government, whose civilising mission in Ruanda and Urundi was being carried out in the generous spirit characteristic of the Belgian nation.

The Chairman noted that the Belgian report was one of the reports which corresponded most nearly with the spirit of the Covenant. The Belgian Government had addressed it directly to the Council of the League and had drawn it up in conformity with the questionnaire.

He declared the discussion on the report open and asked M. van Rees, who wished to make certain observations of a general nature, to speak.

M. van Rees expressed the hope that next year a small map would be attached to the report. It would also be of use if the ordinances mentioned in the report, and which were not to be found in the Annex, were added to it — for example, Ordinance No. 10 regulating the judicial system, and Ordinance No. 9 on the system of land tenure, and others.

M. Forthomme said that he would transmit this request to his Government, which would certainly comply with it. He thought that the Commission had received the report presented by the Government to the Belgian Chambers for the year 1921, which had included a map. Regarding the omission of the official texts, this was probably due to a fear lest the members of the Commission should be embarrassed by too great a number of documents. The complete texts would henceforth be placed at its disposal. It was understood that, as far as the laws and ordinances already in force were concerned, the Belgian Government would send to the Secretariat two copies of the complete collection of the Official Bulletin containing the texts. For the future, the Belgian Government would send this Bulletin or the texts of the ordinances regularly to the Secretariat and to each member of the Commission.

M. van Rees, continuing his general observations, wished to obtain certain explanations regarding the functions of the Royal Commissioner and of the two Residents under him. Did the Royal Commissioner alone possess legislative powers in the territory ? Did the two Residents, his subordinates, possess any power in this matter ? Did the Royal Commissioner hold his power by reason of legislation passed by the Belgian Parliament ? The report did not give details regarding these points.

M. Forthomme said that the Belgian Government had not yet submitted to the Chambers the Bill which would definitely sanction, from the Belgian point of view, the acceptance of the mandate for Ruanda and Urundi. This draft law would probably contain regulations concerning the powers given to the Royal Commissioner and to the Residents. If not, special measures would be taken. For the moment the system established during the war was still in force. As the Belgian troops had penetrated into the territory of the German Colony, General Malfeyt, former Governor-General of the Congo, who was appointed High Commissioner, had assumed the civil power. The Royal Commissioner at the moment had simply reassumed the powers given to General Malfeyt in virtue of arrangements made in 1916 giving to the Royal High Commissioner in the occupied territories all the powers which the colonial Belgian law accorded to the Governor of the Congo. The text of this law and of the decrees and acts which completed it was to be found among the documents which would be sent to the Commission. The broad lines of these laws were as follows:

Legislative power in the Congo belonged to the King, in actual fact to the Ministry. It was delegated to the Governor-General. The same was the case for Ruanda and Urundi. In practice, the High Commissioner assumed the power for all the more urgent cases. He promulgated ordinances. If, during the six months following the promulgation of an ordinance, the King had not notified that he would refuse to ratify it, that ordinance passed into law. Experience had shown the wisdom of this measure, by which the High Commissioner was left free to modify his ordinances during that period of six months should it appear necessary and to forward a new text to the Central Government. Residents could make local regulations, subject to the approval of the High Commissioner, but they could not take legislative measures concerning, for example, the status of the native inhabitants, the system of land tenure, etc., except in cases when the High Commissioner was obliged to delegate his powers to one of them. This had occurred when M. Ryckmans, Resident of Urundi, had taken the place of M. Marzorati, who was taking his regular leave in Belgium.

The CHAIRMAN wished to raise the question of the relation between the Belgian administration and the native authorities and to obtain information on this point. The Commission had discussed this matter during the previous year and M. Orts had been good enough to give certain details, while at the same time pointing out that he did not represent the Belgian Government (Minutes of the Second Session, page 72). The question might be framed as follows: Had any convention been concluded between the Belgian Government and the King of Ruanda?

M. FORTHOMME thought there was no treaty between the Belgian Government and the chief in question. The Belgian Government had not considered it necessary, thinking that it was simply taking over the mandate in succession to Germany, and that there was no need to conclude a treaty if Germany had not done so. Since the Mandates Commission had raised the question, the Belgian Government had wished to know whether this had not been an omission on its part. From the enquiry which it had conducted, both among the local authorities and among the most competent colonial administrators, it appeared to be unanimously held that such measures would not only be unnecessary, but would be rather harmful. It would be of use, he thought, to the Commission if it considered the past history on this point for a moment. When the first reports on Ruanda and Urundi were drawn up, the Belgians had only a general knowledge of the conditions obtaining in these territories. They had found there a king who exercised a kind of government. Everyone knew how useful it was in colonial administration to deal with chiefs who had real authority. In Ruanda, the first observers had been deceived as to the power of the king, who, in fact, was only a chief with rather more security than the others. Without doubt, the existence of this hereditary power, and of a kind of black aristocracy, might be considered as an excellent government and one which, moreover, permitted of the realisation of economies. To have made a treaty with King Musinga, however, would have called in question the rights of the white race to occupy the country as protector of the black races. Further, the so-called monarchical system was far from being faultless. In the administration of justice, for example, it had been necessary to place the white by the side of or above the black. It had been necessary to impose certain measures, for example, vaccination against plague amongst cattle. Musinga did not understand the authority of the white race, whether that race was German or Belgian. What would happen if he were to think that, as a result of the intervention of the League, the Belgian authority was once more called in question. The Belgian Government continued, therefore, to think that there was no need to conclude a treaty.

M. van REES said that he was quite satisfied with M. Forthomme's reply. What he desired to know was whether the Belgian Government had left to this shadow of a king any power at all, not only administrative but legislative, judicial or fiscal. Could the Belgian Government at any given moment assume all judicial or fiscal power without informing the king—that was to say, without having previously determined the obligations of both parties? Last year, M. van Rees had not intended to speak of a treaty but of a kind of agreement such as existed in the Netherlands Indies, where a large number of more or less important Sultans existed with whom had been concluded "political contracts" capable of modification in accordance with the circumstances.

M. FORTHOMME replied that nothing was further from the intention of the Belgian Government than to deprive King Musinga or any other native chief of his authority or prerogatives without reason and without warning. Such an act would soon have a prejudicial effect on Belgian administration, which would become impossible or too burdensome. Musinga retained all the prerogatives which he valued most: his court, his officials, his wives and his cattle; he kept, so to speak, the state proper to a king. The Belgian authorities had even added considerably to his prestige, as they had always been careful to show that his position was respected and the Resident and the Royal Commissioner never failed to pay him the greatest deference. In that territory there had been very few disturbances, such as might have occurred elsewhere, for the Belgians had no feeling against colour. The King and the chiefs kept the right to act as judges in disputes between natives in all that concerned marriage, civil status and customs. The Belgians only intervened for serious offences. It should be remembered, for instance, that in that country murder was considered no more seriously than any accident which might cause the death of a man. In the one case, as in the other, compensation was claimed from the offender or from his family. It had been necessary to change this conception of justice. It had also been noted that certain of the judges were corrupt and partial. In this direction, therefore, it could be said that the Belgians had limited the rights and prerogatives of the native chiefs, but this policy had been followed in order to safeguard the moral development of the race. In every field where it had been possible for the Belgian authority to give the chiefs a free hand, this had been done, because it was not only the most honest and the most just policy, but also the most practical one.

Sir F. LUGARD agreed that a treaty in the circumstances was not necessary. The question had perhaps arisen from analogy with the neighbouring territory of Uganda. In that country treaties had been necessary from the beginning in order to acquire sovereignty. In Ruanda-Urundi, since the sovereignty had been conferred by the mandate, treaties were not necessary.

M. ORTS noted that there had been some confusion when the question was raised during the session of 1922. M. van Rees had asked whether, in view of the existence in these territories of two organised native "States", the mandatory Power ought not to establish, by a convention between it and the native "kings", the powers of the latter and those which the mandatory Power wished to retain. The report before the Commission gave a reply to this question and the accredited representative of the Belgian Government had just informed the Commission of the point of view of the mandatory Power. It agreed with that which M. Orts had explained last year in that the Government of the mandatory State considered that it was unnecessary to conclude the Convention in question.

Belgium had the right to administer these territories under the mandate which had been conferred upon it by the League of Nations. Its rights were the same as those of the other mandatory Powers. For these rights it would not be possible to substitute others of a different character, such as a convention concluded with native chiefs would be.

M. van REES had just raised another question, which was somewhat different, namely, whether the powers of the native chiefs should not be clearly defined in order that they might know what they had a right to do, and that the Belgian administration might itself be acquainted with its rights and obligations. In this he was inclined to share the opinion of M. van Rees. It would facilitate the exercise of the mandate. The powers, however, of the two parties should not be defined except by a law of the mandatory Power to the exclusion of bilateral conventions which could only be altered with the consent of the two parties. This appeared to be also the opinion of the Belgian Commissioner (see page 21 of the report). Endeavour should be made to use in the interests of the territory the authority of the present chiefs, but if they had abused their powers or in the case of flagrant incapacity the Belgian administration, which was responsible to the League of Nations, would have to intervene and to substitute in case of necessity a direct system of administration for an indirect. It could only exercise this power after having determined the authority of the native chiefs, not by means of a bilateral convention but by the promulgation of ordinances, which were always subject to revision.

M. FORTHOMME added that so much was this the opinion of the Belgian Government that the Minister for the Colonies was at the moment studying a scheme which might be described as a "Native Law", in which the situation of the Government in regard to the natives and *vice versa* would be exactly defined.

M. ORTS was of opinion that the Commission should congratulate itself on the complete agreement which existed on this point between itself and the accredited representative of the Belgian Government.

The CHAIRMAN agreed with M. Orts. He wished to put another question. Was the legislation of the Belgian Congo automatically applicable to Ruanda-Urundi, or were administrative decrees necessary for its application to the mandated territory ?

M. FORTHOMME replied that the principle followed was this. In places where the German laws and ordinances had not been set aside, they remained in force. Where the Royal Commissioner had not formulated local regulations, those of the Congo were applied. The Commission should note that everywhere care was taken to respect the native customs.

M. RAPPARD thought that the Commission would be glad to have the following point made quite clear. When the German law had been annulled, either a decree of the High Commissioner or the law of the Belgian Congo had been substituted for it. Was it not expressly said, in a decree promulgated by the High Commissioner and abrogating the German law, that the Congo legislation would replace the German legislation ? In other words, was it always in virtue of the authority of the High Commissioner that a new law was applied ? When he either drew up a law himself or simply stated that the Congo law would be applied, was he always directly responsible, or was he responsible to the Governor of the Congo ?

Sir F. LUGARD asked what was the fundamental law of the territory, the Congo law or the German law ?

M. FORTHOMME replied that, in principle, it was the German law, but that this was tending to disappear more and more. The Belgian administration had only officially been entrusted with the mandate the year previously. There were still omissions, but new regulations, apparently of a more practical nature, were being gradually substituted for the German legislation. Further, the German legislation had been far from complete. In reality, the ordinances were almost always borrowed from those of the Belgian Congo.

Sir F. LUGARD asked whether there was a right of appeal from the courts of the Residents in either civil or criminal cases and did the High Commissioner exercise the prerogative of mercy ?

M. FORTHOMME referred to the reply contained in Ordinance No. 125, pages 27 and 28 of the report. Appeal could be made in small cases but not in important ones. As these latter

came before the territorial courts, it was considered that the judgments were given by judges who were sufficiently competent. The natives could naturally have recourse to the Royal Commissioner, who had the power to commute the penalty or to exercise the prerogative of mercy Infliction of the death penalty, he thought, had always to be submitted to the Royal Commissioner, who had the prerogative of mercy.

M. Orts wished to put a question on this point. In the Belgian Congo the prerogative of mercy existed. As far as he remembered, it was the King himself who exercised it from Brussels. Was the same procedure followed in these territories ?

Sir F. Lugard noted (page 5 of the report) that criminals who had fled from British territory were driven out of the country and then re-arrested. Would it not be better to conclude mutual extradition treaties ?

M. Forthomme said that an extradition treaty existed between the Belgian Congo and the neighbouring British territories. The question of extending that treaty to the mandated territory had not yet been settled.

M. Orts observed that, once more, the question of the application to mandated territories of existing treaties had been raised.

Sir F. Lugard asked on what date the final approval of the mandate by Belgium would be given.

M. Forthomme said that the Government, questioned on this point, had said that, for reasons of an international nature, it had not yet placed the matter before the Chamber. He thought that the question would be settled at the next session.

Slavery.

Mr. Grimshaw desired certain information regarding the Ordinance of November 22nd, 1921 (page 21 of the report), concerning the registration of slaves.

M. Forthomme explained that the Belgian Government, in conformity with the obligations it had assumed, had decided to abolish slavery. It had desired to begin this by carrying out a kind of census of slaves. It had not been desirable to take radical and immediate measures for fear of provoking possible economic and political troubles. The Belgian Government had been agreeably surprised to have obtained only 18 registrations. There were, therefore, only 18 cases of slavery to be dealt with. Two of these slaves had been immediately freed without difficulty. The case of the 16 others, regarding which the law of the Koran had been found to be an obstacle (one of the two co-proprietors of these slaves had been absent), had just been settled. The ordinance finally abolishing slavery had been adopted on March 28th, 1922.

In reply to a further question from Mr. Grimshaw, M. Forthomme reminded the Commission that the first Belgian observers had formed erroneous impressions of the "aristocracy" of the Ruanda. This aristocracy had certainly kept its prestige, but the Bahutus were not of a status corresponding to that possessed by serfs of the Middle Ages. In Ruanda, as elsewhere, the men who worked ended by ruling. The Bahutus kept the cattle, the only riches in that country; they were not so much ruled or exploited by the Batutis as was thought. He stated that occasionally they crossed the frontier to sell for their own profit cattle which did not belong to them. The Belgians were now beginning to teach the natives, not without difficulty, to derive a profit from the cattle which they possessed simply for the pleasure of owning them. In this way the development of the country progressed.

To return to the question put by Mr. Grimshaw, servitude in this territory was not what it appeared to be. An aristocracy, without doubt, existed, but it was on the road to civilisation and could no longer abuse its position, especially in judicial matters, owing to the vigilant Belgian administration.

Mr. Grimshaw asked whether the Bahutus had the right to acquire property or cattle.

M. Forthomme replied that this stage had not yet been reached, because the system of land tenure had not been settled in accordance with European conceptions. A system of a very special kind had been found in those territories and the Belgians were hesitating a good deal before touching it. In principle, all the land belonged to the king, as well as all the cattle. He delegated his power to provincial chiefs, who, in turn, delegated them to under-chiefs. Further, there were in the provinces petty chiefs who were direct dependents on the king (the chief of a province in the local dialect was called the "principal guardian of the king's cattle"). Personal property, therefore, did not, in fact, exist.

Everything belonged to the king, who was ignorant of how much he possessed. If the Belgians desired to introduce European legislation with its precise conceptions, it would be necessary either to recognise officially that everything belonged to the king, which would result in the ruin of everyone, or to insist that persons living on the land were its owners, and the persons keeping the cattle were their owners. In that case, the king would be dispossessed and the chiefs themselves would not know what their share of the property was. It appeared likely that some system of property would be established at some future date, but this would be accomplished individually. Side by side with the communities of white people, the blacks were beginning to understand the meaning of the words "exploitation and cultivation". A new way to riches had, therefore, been opened.

The sense of property would be developed gradually and would spread. Among the natives themselves would be found persons who would help to establish a system whereby the holding of property might be developed, while respecting the rights of the king and of the chiefs, and each person might be given something which he could call his own, an excellent method of developing civilisation in these territories. The organisation of property in accordance with European ideas, however, did not, in fact, exist, for the patriarchal system was still in force.

Sir F. LUGARD said he had asked the questions in order to bring out the two points : (*a*) that all unregistered slaves were declared free; and (*b*) that adequate publicity had been given to the order to register. These essential points were not made very clear in the report.

M. FORTHOMME doubted whether a slave could be prevented from remaining with his master if he desired to do so. The law entirely prohibited slavery in its domestic or other forms. Only a court could decide whether a slave who remained voluntarily with his master could be considered a slave.

Sir F. LUGARD finally observed that in practice the Bahutus were the serfs of the king, whose authority was stronger than ever, since he now possessed behind him the force of the Government. If the Belgian authorities were about to codify the king's power and to maintain his existing possession of cattle and land, could M. Forthomme state how it could be possible to introduce gradually a new system capable of providing a means for the natives to acquire land and cattle ?

M. FORTHOMME replied that it was precisely here that the Belgian Government found its principal difficulty in drawing up effective legislation. Every endeavour was being made to attain the desired end, but it was necessary to inculcate into the natives themselves a sense of property. It was first necessary for the natives to realise the utility of possessing property. Musinga himself did not know what profit he could obtain from his numberless cattle if he disposed of them. He was gradually beginning to understand how to obtain a profit by extending the products of civilisation from the phonograph to the motor-car. At the moment there was practically no profit obtained from keeping cattle, which were badly looked after. It had only been quite recently that Musinga had realised the benefits which could be conferred by veterinary science. He would doubtless gradually find out for himself why white people were engaged in exploiting the territory. It was, therefore, necessary that the law now under examination should be sufficiently elastic to be adaptable to any state of evolution for which preparation was being made and which would ultimately be reached.

M. ORTS thought that the statements of M. Forthomme were of extreme interest and that they should be very exactly recorded in the Minutes, for in future the Commission would undoubtedly follow with very special interest the development of this policy, which was of so highly instructive a character. In fact, the Belgians were gradually introducing a system whereby it would be possible for the native king to be brought to realise that his prior right over property had a bad reaction on his personal wealth. When he had realised this, he would find himself in a convenient position to accept the substitution of a civil list for his theoretical rights of property over the whole territory. This was the end in view.

Labour.

In reply to questions from Mr. GRIMSHAW, M. FORTHOMME stated that the masters had no right to inflict corporal punishment. Labour was less difficult to find in Ruanda and in Urundi, where the population was numerous and hard-working, than in the Congo. Compulsory labour had been suppressed, but the power of procuring labourers under reasonable conditions had been retained. The abuses arising out of the payment of debts by means of labour were not tolerated.

In reference to the compulsory labour due to native chiefs, Mr. GRIMSHAW thought that a period of two days a week appeared excessive and was glad to note that the Administration had succeeded in reducing this period and in diverting the labour in question to works useful in the public interest. With regard to labour in lieu of taxation, he noted that this had been permitted in 1921. Was this also the case in 1922, when large numbers of natives had not paid their taxes ?

M. FORTHOMME explained that the inhabitants of those parts of the country which had been attacked by famine had not been forced to work. In places where the natives were not in a position to obtain from the work sufficient profit to pay their taxes, they had been allowed to pay in labour up to a maximum of ten days. As far as the obtaining of labourers from the native chiefs was concerned, the same difficulties had been experienced in the Congo as had been experienced in the Cameroons, where, however, they quickly ceased to exist. The case was not the same with Ruanda, where labour was abundant. Further, the administration was ready to take steps if abuses were found.

Arms Traffic.

In reply to a question from Sir F. LUGARD, M. FORTHOMME said that, according to official information, natives possessed no fire-arms imported from Europe.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD asked how the sale of native intoxicants was controlled (page 23 of the report).

M. FORTHOMME was unable to state the rules in force in the Congo. The officials knew the places and days and hours of the sale of native drink and intervened when an abuse occurred. In the towns prohibition was not absolute. It depended on the officials in charge, who acted according to circumstances and took care that there should be no abuse. In many cases the sale of native fermented drinks in towns was entirely prohibited.

The CHAIRMAN asked what M. Forthomme considered should be generally understood by the term "trade spirits".

Sir F. LUGARD wished to know whether this expression referred to spirits for trade with the natives.

M. FORTHOMME replied that trade spirits consisted of bad alcohol distilled in certain European places, very strong, unpurified and very cheap. It was entirely prohibited, as was all other alcohol, and it was not sold to the natives any more than good alcohol.

M. ORTS pointed out that the expression "trade spirits" might be found in all conventions regarding the regime of spirituous liquors in Africa; the first of these conventions dated from 1891. There was agreement on the general meaning, though the term had never been precisely defined.

Sir F. LUGARD pointed out that, in the section devoted to drugs (page 23 of the report), mention was made of Indian hemp.

M. FORTHOMME explained that the smoking of Indian hemp only existed among the original negro inhabitants of the East Coast, and that the authorities were carrying out a campaign against it. Among the inhabitants it was used as a remedy against cattle disease. The Germans had not introduced legislation against it, probably because it could be said that the habit of smoking Indian hemp did not exist among the natives.

Freedom of Conscience.

No observations.

Military Clauses.

Sir F. LUGARD referred to the statement, on page 6 of the report, regarding a revolt which had necessitated the intervention of military forces and about which no other details were given.

M. FORTHOMME explained that this had been a case, one of many, of a quarrel between native chiefs. In the case in question it had been necessary to employ military forces. He was unable to say how great the loss of life had been, but it had not been a very serious affair. He drew attention to the text of the report, which, examined more closely, indicated that there was no need to exaggerate the importance of this revolt.

Education.

Mme. BUGGE-WICKSELL noted that the situation in this respect, especially in Ruanda, was rather bad, and she hoped to find in the next report information concerning schemes for the development of public instruction in the territory.

M. FORTHOMME promised to take the necessary steps. The Commission should remember that the Belgian authorities had only been responsible for the territory for a short time. They were, however, determined to make every effort in this direction.

In reply to further questions from Mme. BUGGE-WICKSELL, M. FORTHOMME explained that the Belgian authorities gave indirect financial assistance to public instruction, in the form of subsidies to missions. In the mission schools native teachers were being trained. Mme. Bugge-Wicksell would receive a list of official publications containing information on the life and needs of the population in the villages. Infant mortality was endemic among the natives and it would be useful to encourage in the territory, as had been done in the Congo, the special training of midwives and nurses.

Public Health.

M. RAPPARD read the passage of Count de Ballobar's report (Annex 9) concerning Ruanda-Urundi.

Economic Equality.

In reply to two questions from Sir F. LUGARD, M. FORTHOMME explained that the Customs union with the Congo had not resulted in any exclusive privilege, and, further, that the cotton exports had been forbidden because of a very serious cotton disease which had raged in the territory; this had been done in order to prevent the spread of the disease.

Sir F. LUGARD asked whether the mandatory Power considered that the situation of the population of the mandated territory was disadvantageous from an economic point of view as compared with the population of the Congo, particularly as regarded the title of land to foreigners.

M. FORTHOMME replied that no title conveying property rights was delivered, as he had already mentioned, by reason of the special situation of the country. This was one of the questions which was being studied at the moment.

The CHAIRMAN asked how the question concerning the extension to the mandated territory of the special conventions concluded by the mandatory Power was regulated. This particularly applied to the most-favoured-nation clause. Instead of being in a privileged position, the mandated territory ran the risk of finding itself, and in actual fact sometimes did find itself, in a disadvantageous position as compared with the colonies.

M. FORTHOMME replied that the Congo Customs regime was applied to Ruanda, that was to say, that all goods passing from one territory to the other were subjected to no taxation or hindrance. It could not therefore be said that the inhabitants of one of the two territories were in a worse position than those of the other. This was the position in regard to internal relations. Regarding external relations, Belgium was bound to the Congo by the obligation not to introduce a preferential tariff. If a system differing from that existing for the Congo was applied to Ruanda, and if Ruanda-Urundi could be attached to the system in force for the mother country, certain advantages, the results of negotiations with other countries, could be conceived as applicable to Ruanda-Urundi. This was a general point concerning the mandates and it might be that certain disadvantages for the territory would result from the mandate. In actual fact, Ruanda was under the same system as the Congo.

The CHAIRMAN remarked that, in addition to the question of economic policy, other conventions could be applied to the territory, conventions regarding the assistance of foreigners; for example, did a subject of Ruanda in a foreign country receive the same assistance as a Belgian subject in a foreign country ?

M. FORTHOMME replied that, if the subjects of Ruanda were considered as protected by Belgium, and if the convention in question mentioned them as being so protected, the case was clear. If this were not so, the inhabitants of the country were undeniably at a disadvantage.

The CHAIRMAN said that the Commission was deeply concerned with this state of affairs because the mandate system ought to result in giving advantages to the inhabitants of the territory rather than in handicapping them.

M. ORTS understood that the treaties and special conventions assuring protection abroad to Belgian citizens and to subjects of Belgian colonies did not apply to inhabitants of mandated territory except when expressly stipulated.

Land Tenure.

M. van REES noted that there was little to be said on this, since the system of land tenure had not yet been organised. Regarding the sentence on page 13 of the report: "legislation passed since the Belgian occupation does not authorise any alienation of native land", what was meant by native land, since all the land belonged to the king ?

M. FORTHOMME replied that those who had drafted the law had employed this form for want of another, in order to designate everything which did not belong to a white person, without wishing to prejudge in any way any system which might be established. There were no lands belonging to white people, but there were lands occupied in fact by the authorities, missions, etc., which were considered to be no longer native land.

In reply to another question from M. van REES, M. FORTHOMME explained that the rents were paid to the chief of the district, that was to say, the nearest authority representing the royal power. Further, rents were not high.

The CHAIRMAN asked, in this connection, what should be understood by State domain. If such domain existed, who was the State ?

M. FORTHOMME replied that this question, which had already been so difficult to clear up in regard to the Congo, was still more difficult for Ruanda-Urundi, because of the special system in force there. For the moment it could be said that no State domain existed. Belgium only possessed controlling rights. In taking over the country, it found a certain state of affairs, which it was keeping in existence until a better system was found. For the moment, Belgium was simply administering a domain, whatever that domain might be. Was it the King ? Was it the whole of the population ? Was it the territory itself ? Only one thing was certain and that was that Belgium was administering the domain.

The CHAIRMAN wished to know what the distinction was between Belgium proper and the mandatory State as administrator of the mandate. He wished to know the opinion of the Belgian Government on the legal consequences arising from loans, floated with or without security, which the mandatory Power might desire to raise for the benefit of the mandated territory. The Government had given its guarantee. It might be necessary to take securities. What would happen supposing Belgium one day resigned her mandate ?

M. FORTHOMME replied that this question had not yet been considered because the financial advances to the territory had been but small. If, however, there was any question of constructing a railway, for example, which would cost a large sum, two hundred millions, the Government, being obliged to give a guarantee to the investors, might take steps to ascertain in what measure it was covered. Belgium was the administrator. A private individual who furnished capital for the exploitation of the land for which he was trustee would have the right on the day when he rendered account of his administration to credit to his account the advances which he had made. If Belgium were to resign her mandate, she would, therefore, have the right to raise the question of the advances which she had made, and could, for example, ask that they should be repaid by the new mandatory Power.

The CHAIRMAN noted that the case would be different if the Government had taken up securities.

M. FORTHOMME replied that there was no question of securities. A trustee could not take security. He was bound by a moral obligation. It was, in fact, an honour to be entrusted with a mandate such as the mandate for these territories. Up to the moment, Belgium had accomplished her task without much difficulty, and could it really be said that it was a burden to expend two hundred millions on a railway ? It was by no means certain that it was so, because, if the country was developed, immense riches would accrue which would quickly compensate for all advances which had been made. Something had, in fact, always to be risked.

M. ORTS added that the opinion of M. Forthomme was that which seemed to be held by the Commission.

M. FORTHOMME pointed out that this problem had not yet arisen between himself and his Government. He had merely expressed his personal opinion. Nevertheless, very strong moral assurances would be required that the eventual repayment of advances would be guaranteed. The situation would be an embarrassing one if the new mandatory Power refused to consider itself bound morally or materially. The danger was that investors would not run the risk of investing in a mandated country. This would be a real handicap. The principle here, however, at stake was the principle of taking securities, and the Belgian Government was not taking securities.

The CHAIRMAN said that in this case an understanding would have to be reached with the League of Nations.

M. FORTHOMME was of opinion that the part to be played by the League of Nations was a very important one.

Sir F. LUGARD put forward a hypothetical case. The mandatory Power, having taken securities in a railway or other enterprise, might not be willing to hand over these securities if the mandate were transferred, or, again, the shareholders in any loan issued for the purpose of building a railway, and who had received the guarantee of the mandatory Power, might be unwilling to accept a transfer to a succeeding Power.

M. FORTHOMME said that this was a very important question. The shareholder might turn to Belgium and inform her that he considered her to be still under obligations towards himself. The case put by Sir F. Lugard would not be so difficult. In a sense it had nothing to do with the State. Supposing a railway was to be constructed and 100 million shares issued with the Belgian State guarantee. There was here a second guarantee, quite independent of the Belgian State. If the Belgian Government did not honour its signature, the railway remained as a guarantee. In this case it was quite certain that the shareholder had the right to fall back on that guarantee.

The CHAIRMAN recognised the force of this observation. He pointed out the analogy of this case with the guarantees enjoyed by the holders of Turkish bonds.

M. ORTS said that the discussion was not an academic one but had a very practical bearing. It was necessary to obtain the flow of capital into the mandated territories in order to secure their economic development. If it was impossible to find a system of guarantees, how could prejudice to the position of these territories be avoided ?

The CHAIRMAN warmly thanked M. Forthomme for his statement.

Public Finances.

The CHAIRMAN noted the simplicity of the budget and asked whether it was separate from that of the Belgian Congo.

M. FORTHOMME replied in the affirmative. This budget did not come before the Belgian Chambers.

M. ORTS asked, in view of the fact that the Customs union existed, how the receipts of the two countries were divided. The same question applied to the cost of collection.

M. FORTHOMME replied that the decision taken regarding the Customs union was too recent for this question to have been examined. The system of dividing the receipts in proportion to the number of the inhabitants, which was generally in force in cases of Customs unions, had been adopted. Provisionally the Customs posts of Ruanda and Urundi would keep their receipts, except when the destination of the goods in transit was clearly marked.

Sir F. LUGARD remarked that, if each party to the Customs union received the duties levied at its own port, there would be a natural preference to import via the Congo rather than via Dar-es-Salaam.

M. FORTHOMME explained that the place where the collection of customs dues occurred depended on the route taken.

The CHAIRMAN expressed the hope that the future budgets would contain tables allowing a comparison to be made with the previous years and giving not only the estimates but also the actual expenditure. Further, he hoped that the expenditure incurred directly for account of the native inhabitants might be placed under separate headings. He asked what was meant by the expression "recette pour ordre", an expression regarding which the Commission had asked for explanations last year.

M. FORTHOMME explained that this was merely a question of accounts and had no relation with actual receipts or expenditure. For example, certain sums coming from estates were kept until the heirs presented themselves. These were "recettes pour ordre". Regarding details to be put into the budget, distinction between the various items, etc., it should not be forgotten that the budget was, in fact, a budget in preparation.

Sir F. LUGARD asked if the taxation of natives was additional to any local tribute, paid to the chief.

M. FORTHOMME thought this taxation was independent of local tribute, which was very small, and was paid in kind.

Secret Societies.

Sir F. LUGARD asked for information regarding the situation in respect of secret societies. A very important society, the "Nalurigi", had caused great difficulties in the past. Had it been suppressed ?

M. FORTHOMME said that it still existed, but that it seemed to have caused no trouble this year.

Native Tribunals.

M. FORTHOMME explained that the native tribunals in the villages regulated local affairs in accordance with various customs.

M. YANAGHITA wished for explanations on the permits required from natives not belonging to the territory.

M. FORTHOMME replied that this was a matter concerning natives who had come there from other territories and to whom neither the law in force for the white population nor the law for the natives could be applied, since their customs were not the same. They could not be allowed to mix with the natives without creating trouble. They had been grouped together in villages near the towns. They were workers, boys in the service of officers or travellers, and were also in a relatively high state of civilisation.

171. DATE OF THE NEXT SESSION OF THE COMMISSION.

The CHAIRMAN asked whether it would be possible to advance the date of the next session to June 15th, 1924, and have the annual report on May 15th.

M. FORTHOMME said that he would consult the administration on this point.

172. NUMBER OF COPIES OF THE REPORTS TO BE SUPPLIED TO THE SECRETARIAT.

It was decided that M. Forthomme should ask his Government to send 100 copies of the report to the Secretariat owing to the number of States to which it was advisable to send, since all the members of the League participitated in the control for which the League itself was responsible. Moreover, a certain number of copies would be necessary for reference in connection with the ever-increasing work which was being done in connection with the mandates question.

The CHAIRMAN, thanking M. Forthomme, expressed the admiration of the whole Commission for the competence which he had shown. He hoped that his stay at Geneva had impressed him with the fact that the Commission was showing itself in its true character of a collaborator with the Governments which were entrusted with the mandates, and not as a critic.

M. Forthomme thanked the Chairman for his kind remarks and for the tact with which he had presided over the discussion. In a Commission in which he might reasonably have expected to find a certain amount of severity he had found only friends. In all the questions which had been put to him the general desire of the Commission to accomplish a useful work was evident, both in the interests of the native inhabitants and of the commerce and industry of the European States. M. Forthomme expressed his pride in being able to collaborate even for a few hours with a Commission full of such a spirit.

SEVENTEENTH MEETING (Private)

held at Geneva, on Tuesday, July 31st, 1923, at 10 a.m.

Present : All the members of the Commission, except the Count de Ballobar.

173. Programme of Work.

The Chairman said that the Commission was about to hear Sir Edgar Walton and Major Herbst. To-morrow, Mr. Ormsby-Gore would arrive; on Thursday, Sir Joseph Cook; and on Friday Sir James Allen. The plenary meeting, therefore, might be held probably on Saturday.

There remained the questionnaire. This was the first year in which the Commission had received reports drafted on the basis of the questionnaire. To undertake now a revision of it might give the mandatory Powers the impression that the questionnaire would each year be entirely revised. He accordingly suggested that the revision of the questionnaire should be postponed to the next session. Meanwhile, the members of the Commission might consider what modifications appeared to them to be necessary and then bring them forward at the next session of the Commission.

Sir F. Lugard pointed out that the revision of the questionnaire had been entrusted to three members of the Commission, and he personally had devoted many hours to the work, which he had nearly completed.

M. Orts proposed that the preliminary work already done should be sent to the Secretariat, and should constitute a file which might be consulted by the members of the Commission. He agreed with the Chairman that it would be well not to give the impression that the Commission desired to revise the questionnaire each year, and that the experience of the Commission was at present too short to issue a questionnaire in any final form.

The Chairman thanked Sir F. Lugard for the work which he had done, and said that this preliminary study would be of great assistance to the members of the Commission when they came to suggest the modifications which proved necessary.

M. Rappard said that the Secretariat would collect the results of any preliminary work which had been done, and that the documents thus collected would be distributed and form a basis for the discussions which would take place at the next session of the Commission.

A decision to this effect was taken.

174. Examination of the Report on the Administration of South-West Africa in presence of Sir Edgar Walton.

Sir Edgar Walton and Major Herbst came to the table.

Sir Edgar Walton introduced Major Herbst to the Commission. Major Herbst was the Secretary of the Administrator, and could give the Commission the fullest information.

The Chairman said he wished to ask Sir E. Walton a very precise question. He had received from General Smuts a private letter, from which it would appear that Sir E. Walton was the accredited representative of the South African Government. Another letter had been received from London, in which Major Herbst was named as the representative. Only one representative was entitled to sit on the Commission. He would ask who was the accredited representative, and

if there was to be one accredited representative for the report on the mandated territory, and another for the enquiry into the Bondelzwarts rebellion.

Sir E. WALTON enquired whether the accredited representative of the South African Government would be entitled to vote when the report was considered.

M. RAPPARD explained the position under the Rules of Procedure of the Commission, which was determined by Rule 8. He further informed Sir E. Walton that the Commission had already undertaken a preliminary examination of the reports, but that no decisions had been reached. The object of this examination had been to fix the points on which additional information would be asked. There had been no idea of prejudging any of the questions involved. This procedure had been necessary in view of the fact that it was only possible for certain accredited representatives of the mandatory Powers to come to Geneva towards the end of the session.

The CHAIRMAN explained that the members of the Commission might have to ask very precise questions, and that the answers to these questions might engage the responsibility of the Government of the accredited representative. It was, therefore, important to know whether the representative who replied to these questions was the accredited representative of the Government or merely an expert.

Sir E. WALTON said he understood that he was expected to take full responsibility as the accredited representative of the South African Government. Major Herbst would, therefore, attend as an expert, to give full information on the various questions on which the Commission might desire to be informed.

The CHAIRMAN welcomed Sir E. Walton as the accredited representative of the South African Government, and Major Herbst, who would, no doubt, furnish the Commission with any necessary information on the question in which the Assembly was interested. The Commission would first take the report on the mandated territory, and afterwards enquire into the rebellion of the Bondelzwarts.

The Commission had received reports for 1921 and 1922, but questions would only be raised on the report for 1922. He would point out, as a matter of form, that the report on South-West Africa was addressed not to the League of Nations, as required by the Covenant, but to the South African Parliament. This was only a question of form, but he hoped that next year the correct procedure would be followed.

Sir E. WALTON said he would note this point. The report in question was addressed by the Administrator appointed by the Government of South Africa to the Prime Minister. It was the duty of the Prime Minister himself to report to the League of Nations and he had sent his representative to Geneva for that purpose. Henceforth the report would be addressed to the League of Nations, and presented to the Parliament of South Africa for its information.

General Administration.

Sir F. LUGARD observed that large legislative powers were allowed to the Administrator. By whom were these powers controlled ? Was it necessary for his ordinances to be approved by the Union Government or by the High Commissioner for South Africa ?

Sir E. WALTON said that the ordinances in question were laid on the table of the Houses of Parliament in Cape Town, and were subject to approval or amendment by Parliament. The Administrator was a Government official, and the Government could withdraw any proclamation. In practice, the Administrator secured the previous consent of the South African Government.

M. ORTS assumed that the Parliament did not invariably discuss these ordinances, but only debated them at the request of a member or members of the House.

Sir E. WALTON said this was the case.

Sir F. LUGARD asked whether the ordinances became operative at once on their promulgation

Sir E. WALTON replied in the affirmative.

Major HERBST said that the Prime Minister was previously consulted in serious cases.

Sir F. LUGARD pointed out that there was a district known as the "Caprivi Zipfel area" detached from the administration of the territory, and that no report on this area was accordingly submitted to the Commission.

Major HERBST explained that the area in question consisted in the rainy season of a huge swamp, which could not be approached from the side of the mandated territory. The High Commissioner had, therefore, been asked to take up its administration.

Sir F. LUGARD drew attention to a Mandate Act of 1919 and to a Proclamation of 1917 mentioned on page 15 of the report. The Commission would like to receive the text of these.

Major HERBST said that the text of all proclamations was contained in the *Official Gazette*, which had already been forwarded to the League.

M. RAPPARD said that the *Official Gazette* had not yet reached the Secretariat, although he had received official information as to its despatch.

Major HERBST, replying to various questions put by the CHAIRMAN and Sir F. LUGARD, said that the *Official Gazette* contained all the proclamations issued, and that the Administration had arranged for the proclamations issued up to December 31st last to be issued in book form. He would arrange for twelve copies to be sent to Geneva for the use of the Secretariat and the members of the Commission. He would also send twelve copies of all future numbers of the *Official Gazette*.

Sir F. LUGARD suggested that it would be sufficient to send only such portions of the Gazette as referred to the mandated territory. He pointed out that the territory of Walfish Bay was included in the report, though it was not under mandate.

Major HERBST said that this territory was attached to the mandated territory for administrative reasons.

Sir F. LUGARD asked why, on page 3 of the report, a native was defined as a male over 14 years of age. Were all females and boys under 14 excluded from the definition ?

Major HERBST explained that women were excluded from the operation of the pass regulations. They were, therefore, not considered as natives within the meaning of this regulation.

M. van REES asked whether the territory under mandate enjoyed administrative and financial autonomy.

Major HERBST said that this was practically the case.

M. van REES inquired whether this autonomy was legally recognised. Was it not the case that the territory was not considered either legally or in practice as a civil or legal person ?

Major HERBST, referring to the question of financial autonomy, said that the Administrator could legislate in regard to taxation, but as regards appropriation he had to obtain approval for his estimates from the South African Government.

M. van REES said it would be interesting for the Commission to know precisely what was the administrative machinery employed. He would put a number of questions, not with a view to obtaining an immediate answer, but in order that they might be dealt with in next year's report.

The points were as follows:

What were the powers of the Administrator ?
What is the organisation of the Advisory Council assisting the Administrator ?
What are the various branches of the public service ?
What are the administrative subdivisions ?
How is the department for native affairs organised ?
What are the relations between the native Commissioner Superintendent, on the one hand, and the magistrates on the other ?

In connection with these questions he would like to know something of the special administrative machinery for the native reserves. Were these reserves considered as collective units possessing autonomy up to a certain degree ? What was their legal situation ? What was the nature of the rights accorded to the natives in the reserves ? Who were the authorities who disposed of the lands forming part of these reserves ? Were they the native chiefs or the local government ? All these questions arose from the fundamental question: What was the reason for establishing these reserves, and how should they be administered ?

Major HERBST said that a European Power on entering a territory usually found natives living in what had come to be termed "reserves", *i.e.*, land occupied by the natives from time immemorial. The term "reserve" implied that these lands were reserved for the occupation of that particular tribe by the incoming Government. The rights of the natives in those reserves had always been respected by the South African Government. There were, however, cases in the past where the natives had rebelled and where the Parliament had taken away the rights in that particular reserve. In the original native reserves the native chiefs exercised full authority over their own tribes in that particular area, except that certain practices, *i.e.*, the killing of their subjects or interference with adjoining tribes, had been restricted. Their own headmen, in the name of the chiefs, allotted land to newly married couples, and native law was administered by the chief or his headman.

In South-West Africa there were two such original native reserves, where the natives lived according to their tribal customs and where the administration had not applied its own domestic laws or levied any taxation. These were the Ovambo and the Beerseba reserves. These lands existed as when the South African Government took up the administration. No passes were required within these reserves. All the land was regarded as belonging to the chief, who allotted lands to married couples according to necessity.

The CHAIRMAN asked what was the area of these reserves as compared with that of the total territory under mandate.

Sir F. LUGARD pointed out that the actual area had little significance, as large tracts of the territory were a vast desert.

Major HERBST said that in population these reserves represented the greater proportion of the territory. Replying to a question of M. BEAU, he stated that the land was mostly under cultivation.

The CHAIRMAN asked whether there were in those reserves any enclosures or places where white people could or did live.

Major HERBST replied in the negative. Only native tribes lived in these reserves.

M. BEAU asked whether missionaries were allowed to enter.

Major HERBST replied that missionaries were allowed to enter, and that there were three Government officials residing within the reserves. Their population amounted to 100,000, more or less. There was another class of reserve which had been founded by the Germans. These belonged to the remnants of the Hereros and certain Hottentot tribes. Their original native reserves were taken from them after rebellion, particularly after the great rebellion of 1904-6. The Hottentots were dispersed, except the Bondelzwarts, who held out in the mountains on the Orange River. The Germans made a treaty with the Bondelzwarts and gave them a certain area. There was also another tribe, the Beerseba Hottentots, a very small tribe, which had its chief and lived intact in the Beerseba reserve in recognition of the fact that it had not participated in the rebellion. This reserve was mentioned on page 13 of the report.

The third class of reserves was directly under the administration. All the rights of the chiefs had been taken away, and the people were subject to the ordinary laws of the land. Only the Union Parliament could take away any land belonging to these people, and in that sense the power of the Administrator was restricted.

The CHAIRMAN enquired whether the powers of the Union Parliament applied only to the property of the community, or to the property also of individuals, if individual property existed.

Major HERBST explained that individual property came under the ordinary law, but communal property, *i.e.*, land held in common by the natives, was vested in the chief of the tribe. There was not a single case in South-West Africa where a native owned private land. This had been forbidden by German law.

The CHAIRMAN enquired whether this prohibition had been abolished.

Major HERBST said that it had not been abolished by law.

The CHAIRMAN asked whether the German law still existed.

Major HERBST replied in the affirmative.

The CHAIRMAN said he would like to put a question of principle. What was the policy of the South African Government in regard to these reserves ? Was it its intention to maintain these reserves and to constitute new ones, or did it contemplate in the near future the possibility of bringing the native population in contact with civilisation ?

Sir E. WALTON said that the policy was one of segregation. Segregation in the Union of South Africa was literally impossible, as on the farms and in the mines and in the various industries the natives had to work among the white people. Where, however, the natives cultivated land for themselves, it was the policy of the Government to reserve for them lands which they were not allowed to alienate and which white men were not allowed to enter.

The CHAIRMAN enquired what were the motives and what were the advantages and disadvantages of this separation of the two races. Was it in the interests of the native or of the white population that this segregation was imposed ?

Sir E. WALTON said it was entirely in the interests of the natives. The natives, if allowed to live with the white people, eventually parted with their land and became vagrants and a source of danger. The only way to preserve the native was to bring him gradually under the influence of civilisation, as was done in South Africa. The oldest territory in South Africa was the native

territory east of the Cape, where the natives ran their own Government and had their own native council, managing their own affairs and raising their own taxes. These natives were gradually being civilised and white men were not allowed to buy their land or to settle there. The white man could not even enter the territory without obtaining the previous consent of the chief or magistrate, and even then he was not permitted to acquire more than 10 acres.

The CHAIRMAN enquired whether this system could be reconciled with the spirit of the mandates and the civilising mission with which the Mandatory was entrusted.

Major HERBST said that the policy of segregation had not yet been applied to the mandated territory. The native reserve was merely a home for the natives. A native himself might be working on the land along with white people, while his wife remained in the reserve.

The CHAIRMAN enquired whether the native could leave the reserve. He understood that the reserve was his home, which was inviolable by the white man, but that the native might, subject to certain rules, circulate freely.

Major HERBST said that the natives need not go to the reserve at all if they did not wish to do so. They went outside to work for the farmers, and in a few years acquired a number of live-stock. When the farmer could no longer support his live-stock the native was obliged to go elsewhere and might be unable to find an employer to take him on account of the live-stock which he brought with him. A native in this position might go and live in the reserve.

The CHAIRMAN enquired whether women and children might accompany the natives on leaving the reserve.

Major HERBST said that women and children were free to move and were allowed on the farms with the native men. There was no compulsion in the system, which had been instituted as a result of petitions from the natives. Natives had asked to receive back their old lands which they held in common. These lands, however, had been sold to private farmers and it was, therefore, necessary to find other lands which were still available for distribution.

There were certain regulations in the reserve. The natives must prove ownership of their live-stock and a register was kept.

Sir F. LUGARD enquired whether the natives might leave the reserve without a pass.

Major HERBST said that the native, on leaving the reserve, was in the same position as any other native; and he had, therefore, to have a pass, which could be obtained from his master. The German system had been considerably modified. The women and children, for example, were exempt from the obligation of the pass regulations. The policy of segregation described by Sir E. Walton was applied in South Africa under Union law, but it did not apply to the mandated territory.

Sir E. WALTON said that the policy pursued in South Africa could not be at once applied in a new country among people who had just been rescued from barbarism. The natives within the Union to whom it applied had for a hundred years been living more or less under civilised conditions. The policy of the South African Government was one of segregation, but the extent to which it would be applied in South-West Africa must depend on circumstances.

M. d'ANDRADE pointed out that, if there were no reserves, there would be no place for the natives, as outside the reserves the territory was divided into farms which were sold to the white people. If there were no reserves for the natives, they would be unable to exist, or would be reduced to complete subjection to the white population.

Major HERBST said that the natives originally had their own land, which they lost as a consequence of rebellion. They were accordingly given other land, which they accepted of their own free will.

The CHAIRMAN asked whether the natives of the two original reserves, when they went to seek employment beyond the reserves, retained or lost their tribal spirit ?

Major HERBST said that these natives contracted for nine months at a time to work in the mines. They subsequently returned to their own lands and were not encouraged to stay in the mines. They preferred to go to the mines rather than work for farmers, as they wished to remain in large bodies; their tribal spirit had frequently to be corrected, as there were occasional disturbances.

Sir F. LUGARD said that, if there was no compulsion to remain in the reserves, he did not quite understand the necessity for the pass system. It appeared that they were unable to leave the reserve without a pass and were arrested if they did so.

Major HERBST explained that these regulations were intended to prevent vagrancy. The European population was continually complaining of the large number of vagrants, who had no means of subsistence and who stole stock from the farmers. To meet these complaints, the pass system had been invented by the Germans. It acted as a protection for the natives, who, so long as they had a pass, could not be arrested.

M. d'ANDRADE said that the pass system was used in many of the colonies of South Africa and the territories of the Union. It was analogous to the passport system in Europe. The passes indicated the origin of the native, who was his chief, etc. It was no burden on the native.

The CHAIRMAN asked for information as to the population of the territory.

Major HERBST said that the number of Germans had decreased since the war, but had increased since the subsequent deportations. He gave the following figures:

TOTAL POPULATION 1921.

Europeans	Males	11,242	19,433
	Females	8,191	
Natives (estimated)	Males	92,627	177,462
	Females	84,835	
Mixed	Males	15,394	30,845
	Females	15,451	
European males over 21			6,912
British (all ages)	Males	6,250	11,035
	Females	4,785	
German (all ages)	Males	4,602	7,855
	Females	3,253	

State Property.

M. van REES, referring to page 1 of the report, noted an Act of the Union Parliament providing that the railways and ports of the territory should be transferred to the South African Union railway administration. He inquired whether it was merely the administration of these public works which had been transferred, or whether they had become the property of the South African Union, and were no longer regarded as belonging to the mandated territory.

Major HERBST said that they had become the property of the Union.

Sir E. WALTON agreed. These public works had become the property of the Union in accordance with the Treaty of Peace.

Major HERBST pointed out that the public works in question had been State property, which had, therefore, become the property of the mandatory Power.

The CHAIRMAN said that a question of principle was here involved. Did the Government of the Union own these railways as the Government of South Africa or as a mandatory Power? What would be the position if the mandate were transferred ?

Sir E. WALTON said that the mandatory Power could not carry on unless it owned the railways. The railways required money, which would have to be found by the mandatory Power, and a large sum might have to be spent on the railways during the next ten or twenty years. If the railway were not the property of the mandatory Power, the latter would have to be compensated for out-of-pocket expenses on resigning its mandate.

M. d'ANDRADE pointed out that, according to the proclamation which was quoted in the report on South-West Africa, the railways of the mandated territory now actually formed part of the railways of the Union of South Africa, which belonged to the Government of the Union. He reminded the Commission that this question had been discussed in the Cape Parliament and that the railways in South-West Africa had been considered as forming an actual part of the system of the Union.

Major HERBST said that the railways in question undoubtedly belonged to the Union railway system by Act of Parliament. They could not be run separately by the administration because there was a heavy deficit.

M. ORTS asked whether the railways under the German regime had belonged to the German State or to German private companies.

Major HERBST said that they had belonged to the German Government.

M. van REES pointed out that two questions of principle had been raised. First, to whom did these public works belong? Who was the owner of the railways? The second question was that of the repayment of advances made by the mandatory Power for the improvement of the railways. This was quite a separate question. The High Commissioner had replied to the first

question to the effect that the owner of these public works was the South African Union. This was a point which should be noted. The other question was not at the moment under discussion.

Sir E. WALTON agreed. He pointed out that, according to the report, the deficits incurred in the administration of South-West Africa during the military occupation amounted to £1,810,000.

The CHAIRMAN asked whether separate accounts were kept for the railways of the mandated territories, so that it might be ascertained in the future whether there was a deficit or a surplus.

Major HERBST said that the accounts were kept separately up to the moment of transfer, but he did not know what had since been done in the matter.

The CHAIRMAN noted that property, hitherto regarded by the Commission as the property of the mandated territory, had been taken over and incorporated with the property of the mandatory Power by an Act of Parliament. This was the first time such an Act had come to the knowledge of the Commission.

M. RAPPARD read Article 257 of the Treaty of Versailles.

The CHAIRMAN noted that the Act of the Parliament of the Union of South Africa was in contradiction with Article 257 of the Treaty of Versailles.

Sir E. WALTON stated that 400 miles of the railway in question had been built by the South African Government, and that there had been a large expenditure under that head.

The CHAIRMAN did not think that this fact affected the legal position, which was based on the Treaty of Versailles.

Sir E. WALTON pointed out that the railways had been extensively reconstructed since the Treaty.

M. ORTS noted that Sir E. Walton had stated that, in the case of the mandate passing to another Power, the Union Government would have a right to compensation for capital invested. Did not this imply that Sir E. Walton did not regard the South African Union as owner of the railways ? If the Union Government were the owner of the railways, it would naturally keep the property, even if the territory changed hands, and would not have to ask for compensation.

Sir E. WALTON said he did not think there was any doubt as to the intention of the South African Government. The Act laid down that the railways, harbours, etc., should be transferred and vested in the Governor-General of the Union. They were to be worked as part of the system of railways and harbours of the Union, and were conveyed "in full dominium".

The CHAIRMAN said the Commission would note this statement. It would further record that there was here a contradiction with Article 257 of the Treaty of Versailles.

Sir E. WALTON said he would call the attention of the South African Government to the question.

Slavery.

Mr. GRIMSHAW asked whether slavery in any form was legally recognised in German South-West Africa.

Major HERBST said it was not legally recognised, but last year domestic slavery was found to exist as the result of enquiries made by an official who had been sent to the Okavango. It was a difficult matter to interfere with tribal arrangements of this kind, and active steps might result in war. These domestic slaves were not taken away to foreign countries, but remained in their own reserves. There was no slave trade.

Mr. GRIMSHAW said the Commission would like to have the fullest information as to the existing conditions, and the remedies proposed by the Administration.

Major HERBST said that the Administration contemplated the use of moral influence through the officials. He pointed out that, if these slaves were to take the law into their own hands, and deserted their masters, nothing could happen to them. The authorities would not allow them to be forced to go back.

Labour.

Mr. GRIMSHAW referred to Proclamation No. 3, 1917, on page 15 of the report, which provided for the control and punishment of natives employed in mines. By whom was this punishment inflicted ?

Major HERBST said that only the Superintendent of the natives could inflict punishment. He was vested with special jurisdiction, and was an officer of the administration. The maximum punishment was a fine of £3 without any corporal punishment.

Mr. GRIMSHAW asked whether any powers of discipline were granted to employers as such.

Major HERBST said that, under the German system, the police could inflict corporal punishment on the request of the employer. A boy could be sent to the police station to be whipped, and he was sent back after the punishment had been inflicted. There were at that time cases where the master himself inflicted punishment.

Mr. GRIMSHAW said it was stated in the report that a compound manager was required to supervise and control the natives and attend to their complaints. Was the compound manager a servant of the employer ?

Major HERBST replied that he was the servant of the employer but was licenced by the Administration, and forfeited his licence if he did not fulfil his duties towards the Administration.

Mr. GRIMSHAW asked whether vagrants were liable to imprisonment and compulsory employment.

Major HERBST said that punishment for vagrancy might take the form of compulsory employment at a private farm, or at public works, in return for pay. This law was only enforced within the police area.

Sir F. LUGARD enquired as to the police area.

Major HERBST said there were areas beyond which the police were not required to protect the farms. There were certain farms too remote for police protection, and there was no patrol outside the areas where protection was granted.

Mr. GRIMSHAW referred to attempts to meet the shortage of labour by "tightening up control" of the native reserves. What was the nature of the process which was here indicated ?

Major HERBST said that complaints were made by the farmers that the natives were allowed too much freedom during the period of transition. The German regulations were relaxed, and the farmers complained that there was great idleness, and that thefts of stock occurred. Special native affairs officers were, therefore, appointed, and a new and less severe pass system was introduced in place of the old German system.

Mr. GRIMSHAW pointed out that, on page 21 of the report, the number of Ovambos recruited for work was a little over 1,000, "apart from those going of their own accord". Did the recruited natives go under compulsion ?

Major HERBST said that some pressure was exercised by the native chiefs. There was a European officer in Ovamboland, who was informed of the requirements of the mines. He made these requirements known to the chiefs, who themselves persuaded the natives to recruit.

Mr. GRIMSHAW said that there was a reference on page 10 of the report to the performance of labour by women. What were the regulations in the matter ?

Major HERBST said there was no law compelling a woman to work. The men must show visible means of subsistence.

Mr. GRIMSHAW asked whether men were directly compelled to work.

Major HERBST said there was no compulsion if they could show means of subsistence.

Mr. GRIMSHAW asked whether it would not be possible to see the report of the Native Reserves Commission alluded to in this connection.

Major HERBST pointed out that the conclusions of this report were given in the report of the Administrator. The Native Reserves Commission had not to his knowledge taken any evidence.

Mr. GRIMSHAW said it appeared from this report that the Ovambos preferred to work together not only in the mine but elsewhere. Were there any regulations governing the conditions of this gang-labour ?

Major HERBST said there was nothing beyond the laws for masters and servants. Where there was a large number of natives, an official was appointed if the local magistrate could not do the work efficiently.

Sir F. LUGARD asked whether there was any legislation corresponding to the British Truck Act.

Major HERBST said the law provided for payment in cash, but that no occasion had been found to enforce it. The natives were eager to possess stock, and never objected if they were paid in kind.

Sir F. LUGARD pointed out that it was stated in the report that the farmers were too poor to pay their labourers.

Major HERBST said that farmers could allow their natives to leave with a pass if they were unable to pay them. The farmers were in difficulties owing to the fact that there had recently been no market for their stock, and that they could not compete with the Union farmers in the Union market.

Arms Traffic

Sir F. LUGARD inquired whether there were any restrictions on the import of arms for Europeans.

Major HERBST replied that a permit from the Secretary was necessary.

Sir F. LUGARD asked what was the approximate number of arms in the country.

Major HERBST said that nearly every farmer had a gun. The natives at the Okavango and in Ovamboland had been allowed to retain their arms, and also the Bastards, who alone had permits for ammunition. The Bastards were the children of the original Dutch farmers by coloured women, and were the pioneers of the white men, who had pushed them to the north by successive migrations. Their daughters married German soldiers, and were settled among their own people and in some cases on internal farms. They had their own laws and carried on their own Government. They had always assisted the Germans against the native tribes, and they had had with the Germans a treaty of protection. During the last war they had come over to the side of the South African Government.

Sir F. LUGARD remarked that the conditions described did not seem to be in complete accordance with the Convention of September 10th, 1919.

Liquor Laws.

Sir F. LUGARD noted on page 9 of the report that there was a distillery in the possession of the Roman Catholic mission.

Major HERBST said that the Roman Catholic mission authorities had a vineyard. They sold a certain amount of wine to maintain the mission and supplied other mission stations. They distilled a little liqueur brandy, but only in small quantities.

Sir F. LUGARD asked whether any steps had been taken to control Kaffir beer.

Major HERBST said that there were laws in existence, but, so long as the people behaved themselves, nothing was done. In the towns, the municipalities controlled it by means of municipal regulations.

EIGHTEENTH MEETING (Private)

held at Geneva, on Tuesday, July 31st, 1923, at 3.30 p.m.

All the members of the Commission, with the exception of Count de BALLOBAR, were present. Sir Edgar WALTON, accredited representative of the Government of the Union of South Africa, and Major HERBST attended the meeting.

175. — EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF SOUTH-WEST AFRICA IN THE PRESENCE OF SIR E. WALTON *(continued)*.

Economic Equality.

The CHAIRMAN said that there was nothing on this question in the report.

Sir E. WALTON enquired as to the position of a mandatory Power in relation to another country with whom it is bound by treaty. Could the mandatory Power extend the privileges obtained for itself by treaty to its mandated territories ?

The CHAIRMAN said that the Mandates Commission hoped that the mandatory Power would be able to extend all the advantages which it enjoyed by reason of any treaties to its mandated territories. It was the desire of the Commission that all possible advantages should be extended to the mandated territory which were enjoyed by the mandatory Power.

M. van REES said that, in accordance with Article 2 of the mandate, any general conventions could be applied to the mandated territory. The mandatory Powers were quite free to extend the benefits obtained from a general convention to the mandated territory.

Sir E. WALTON said that in the case under consideration South Africa wished to obtain the same benefits from a treaty with a third Power, a Member of the League, for its mandated territories as its own enjoyed. This was not, however, possible, since the third Power had raised difficulties and had objected to the benefits accruing under the treaty being extended to the mandated territories controlled by South Africa. This Power maintained that in international law the mandated territory was not regarded as part of the territory of the mandatory Power.

M. ORTS reminded the Commission that South-West Africa could be administered by the Union as an integral part of its own territory. Unity of administration would thereby be obtained, but the two territories would still remain distinct as regarded their international status: on the one hand, there was a sovereign State; on the other, a territory under mandate. A free State which had signed a special treaty with the Union seemed, therefore, to have the right to affirm that the effects of this treaty did not extend *de jure* to the mandated territory of South-West Africa.

The CHAIRMAN said that the Mandates Commission desired to facilitate the extension of this principle.

Sir E. WALTON well understood the feelings of the Commission, but noted that it could not lay down a principle with regard to this matter. Only the Assembly could do so. Perhaps the Mandates Commission could pass a recommendation asking the Assembly to establish a principle on this very important matter.

The CHAIRMAN said that this question had already occupied the attention of the Commission and would be mentioned in the report of the Commission to the Council.

M. ORTS enquired how the receipts from the Customs were divided between the mandatory Power and the Administration of the mandated territory.

Major HERBST replied that the Customs receipts from all goods sent in to South-West Africa were credited to the administration. When the territory had been under military regime the Government had worked on an estimate. At the time, however, when a civil Administration had been set up, all Customs receipts, including those obtained from the ports of the territory, had been credited to that Administration.

Education.

Mme. BUGGE-WICKSELL noted that an Education Law existed in the territory, but that there were no native Government schools.

Major HERBST explained that the policy hitherto followed had been to establish only Mission schools. This policy, however, would be departed from and public Government schools were about to be set up. The Government subsidised mission schools, paid the salaries of the teachers who were appointed with the approval of the Administration, and provided the necessary books and materials, etc.

In reply to a request from Mme. BUGGE-WICKSELL, Major HERBST promised that all the laws on education and the regulations concerning the educational system in the territory, as well as the *curricula* of the existing mission schools and the training college of the Rhenish mission, would be presented to the Commission with next year's report.

In reply to further questions from Mme. BUGGE-WICKSELL, Major HERBST said that a governmental training college in industries had not yet been found necessary, that there was no demand for instruction in handicrafts since the natives in the district were of a very backward class, and even in the Union of South Africa trade schools were very unpopular with natives of the peasant class. The Administration was always willing to assist any mission wishing to set up a trade school. It was only necessary to establish the fact that the money would not be squandered.

Mme. BUGGE-WICKSELL enquired why schools for agriculture could not be set up.

Major HERBST replied that agriculture was non-existent in the territory and the work performed by the natives was entirely confined to stock-raising, in which they were experts.

The CHAIRMAN asked that in the budget estimates the amounts spent on the education of the natives and of the non-natives should be shown separately.

Major HERBST said that, from the estimates for the current year, it would appear that £3,500 would be spent on native education. The expenditure was automatic. If a mission wished to start a new school, it had only to obtain the requisite number of pupils ordained by the law to obtain at the same time the Government subsidy, whether or not provision had been made for that in the estimates. No distinction was drawn between any of the mission societies.

The CHAIRMAN pointed out that, as the Administration did not require any guarantee as to the standard of instruction in the various schools, it was possible that the money granted for education was not very well spent.

Major HERBST replied that the Administration had the right to inspect schools once a year.

Public Health.

M. RAPPARD read the section of the report of the Count de Ballobar dealing with public health (Annex 9.).

Sir F. LUGARD asked whether any natives were employed as hospital assistants.

Major HERBST replied that a number were employed in the Government hospitals, though not as trained assistants. The natives were not sufficiently advanced to be capable of receiving professional instruction. Vaccine was plentiful in the hospitals and could always be obtained from the Union.

Land Tenure.

The CHAIRMAN hoped that the report next year would contain full details regarding the questions on land tenure.

Major HERBST said that a memorandum answering the questions on land tenure had been prepared and could have been annexed to the report.

Moral, Social and Material Welfare.

Sir F. LUGARD referred to a passage in the report where it was stated that "it is the duty of a magistrate convicting a person of a first offence..... to adjudge him, in lieu of the punishment prescribed, to a term of service on public works, or to employment under any municipality or private person other than the complainant, for a term not exceeding that for which imprisonment may be imposed, at such wages as the magistrate may deem fair". He enquired whether this meant that a magistrate had the power to send a person convicted of any offence to any master instead of carrying out the sentence inflicted by the court.

Major HERBST replied that that was so. In the opinion of the Administration, it was far better for a man capable of doing useful work to do it, and to receive wages for it, than to serve a term of imprisonment at Government expense.

Sir F. LUGARD enquired whether a convicted person could be sent to an ordinary farmer and whether in that case that form of labour was popular with the farmers.

Major HERBST said that the answer to both questions was in the affirmative. The farmers were delighted to obtain any form of labour and were frequently to be seen standing outside the magistrate's court waiting for persons up for judgment to be convicted in order to hire them.

Sir F. LUGARD noted that the report stated that the economic conditions of the mandated territory as a whole prevented the continuance of the tribal system. He enquired why this was so.

Major HERBST replied that the tribal system had been abolished, with the exception of two tribes — the Ovambos and a tribe in the Okovango district. These tribes were under their own chiefs, who were not interfered with by the Government, except that it took care that they should not exercise their powers in an arbitrary manner nor dispose of their land to others. The tribal system had been broken up because of the rebellions which had occurred during the German rule.

The CHAIRMAN, referring to page 22 of the report, enquired why it was necessary to improve the relations between the black and white populations and what measures had been taken to improve those relations. Were the causes of the bad relations permanent or merely transitory ?

Major HERBST replied that the causes appeared to be permanent. The Europeans in that part of the world were intensely anti-native and there was no difference as regarded races, except in degree, in the feeling shown. Naturally a German farmer who had lived under the German regime was more bitter against the native than a farmer coming from the Union. The chief complaint was of the poor quality of the native labour and that it was necessary to go perhaps two hundred miles to find a magistrate to punish a delinquent.

Public Finances.

The CHAIRMAN noted that the expenditure on the police was a very important item. He enquired whether the figure represented expenditure made under normal conditions or expenditure due to extraordinary circumstances.

Major HERBST replied that the figure quoted was for normal times. The people in the districts were crying out for an increased police force. Under the German regime, 60 sergeant-majors, 320 sergeants, 60 constables, and 330 native police had been employed. The Administration, however, employed only 7 commissioned officers, 61 non-commissioned officers, 216 European and 239 native police.

The CHAIRMAN hoped that next year the report would show the actual expenditure and not only the estimates, that the expenditure on natives and on whites should be shown under separate headings, and, further, that tables should be provided enabling the Commission to compare previous budgets.

Major HERBST replied that most of this information would be found in the report of the Controller and Auditor-General distributed with the report.

The CHAIRMAN explained that not every member of the Commission had received the same documents.

M. ORTS noticed that in the estimates large receipts were expected from profits from the mines.

Major HERBST said that these receipts represented the Government share in the diamond mines, the tax on which was roughly 50%. The Government did not work the mines, but paid about 60 % of the working expenses and obtained about 70 % of the profits.

M. ORTS added that, in point of fact, a kind of partnership existed between the companies owning the diamond mines and the Administration, allowing of a division of the working expenses and of the profits. It sufficed to ascertain that the profits were included as receipts in the budget of the territory under mandate.

Major HERBST said that the actual tax on the diamond mines amounted to 66 % of the profits less 70 % of the cost of production.

M. ORTS asked whether the Government of the Union of South Africa allowed the mandated territory all the profits derived from any undertakings or domain lands in the territory. He understood that the Union of South Africa obtained no direct profits from the mandated territory Were only the profits and the working expenses of the railways separate from the special budget of the mandated territory ?

Major HERBST said that this was so.

General Observations.

The CHAIRMAN requested Sir E. Walton to inform his Government that the Commission desired especially to have full details regarding the relations between the Administration and the native authorities and concerning the general organisation of the Government. It hoped also that the amount expended on natives would be shown under separate headings in the budget. A detailed map of the country would, the Commission hoped, be forwarded to all its members and to the Secretariat.

Major HERBST replied that such a map was in course of preparation.

176. DATE FOR RECEPTION OF THE NEXT REPORT ON SOUTH WEST AFRICA.

The CHAIRMAN explained that, as the Commission had decided provisionally to meet next year on June 15th, the report for South-West Africa would have to be received by May 15th. He enquired whether the Administration would experience any difficulty in complying with this request.

Major HERBST thought that there would be no difficulty.

The CHAIRMAN thanked Sir E. Walton and Major Herbst for the information which they had given and for the clearness and accuracy of their replies.

177. ENQUIRY REGARDING THE BONDELZWARTS REBELLION OF 1922: AUDITION OF MAJOR HERBST.

The CHAIRMAN spoke as follows:

"According to the Covenant, the Permanent Mandates Commission is to advise the Council of the League of Nations on all matters relating to the observance of the Mandates. The third Assembly of the League, on September 20th, 1922, unanimously expressed the confident hope that the Permanent Mandates Commission, at its next session, will consider this question and be able to report that satisfactory conditions have been established. We have, therefore, as far as the Bondelzwarts affair is concerned, the double responsibility.

"At the beginning of the third Assembly, Sir E. Walton, delegate of the Union of South Africa, tabled the report of the Administrator of South-West Africa on the Bondelzwarts Rising, 1922. Having informed the Assembly that his Government had decided to throw full light on this matter, and had therefore constituted an impartial Commission of Enquiry, he requested the Assembly to suspend judgment on it until it had been able to take cognisance of the results of the enquiry.

"The members of the Mandates Commission have received from the Secretariat of the League the report of the Commission appointed to enquire into the rebellion of the Bondelzwarts. At the same time, they received the memorandum by the Administrator of South-West Africa on the report of the Commission of Enquiry. The Mandates Commission has noted with great interest these documents and the affair to which they refer. It has been decided to frame as follows the questions which it desired to ask the representative of the Union of South Africa on this subject:

> *"Is the representative of the mandatory Power authorised by his Government to state that the mandatory Power endorses either wholly or in part the findings of the majority of the Commission appointed by it to make an enquiry into the question of the Bondelzwarts Rebellion ?"*

Sir E. WALTON: No, I have no such instructions from my Government. On the contrary, in the debate which took place in the Union Parliament, the Prime Minister defended the action of the Administrator; he not only defended it, but made a very grave statement to the effect that, if it had not been for the action taken by the Administrator, the country might have been committed to a very serious military operation which would have involved very serious loss of life and which would have been on a very large scale. In his opinion, the prompt action of the Administrator saved the country from that calamity. I have no direct and definite instructions from my Government on the point which you have raised, but I gather from the Prime Minister's

statement that the findings of the majority of the Commission are not his view at all, that he entirely supports the Administrator and thinks very highly of his action.

M. ORTS : I wish to put this question. The South African Government said that it would hold an enquiry on the Bondelzwarts affair. It then transmitted a report to the Mandates Commission without attaching to it any reservation or observations. We now learn that the conclusions of this report are not those of the Government. Under these conditions, I should like to know for what reason that report was communicated to the Mandates Commission ? Was it merely for information ?

Sir E. WALTON: The findings of the Commission of Enquiry were not unanimous. Two members of the Commission of Enquiry signed the report ; the comments of the third member, General Lemmer, on the findings of the Commission are to be seen throughout the report. It was a two-to-one report, but the action taken by the Government was to lay that report before the Union Parliament ; the discussion which took place in Parliament is being published, and the Government must of course send it to this Commission.

The Government could not very well express any opinion unless it had made a further independent enquiry. The Mandates Commission has stated that the Government sent the report without any comments ; it would have been difficult for it to make comments unless there had been a further enquiry. but, in order to assist the Commission, it has sent Major Herbst, who was Secretary to the Administrator, who was present during the whole affair, and who has first-hand information, in order that he may give the Mandates Commission information on any point which it may desire.

M. ORTS: I should like the accredited representative of the Union Government to understand that the Mandates Commission considers that, in the case which is now before it, the mandatory Power is assisting in the capacity of a collaborator with the Mandates Commission, in order to help that Commission to form an opinion. It is for this reason that the Commission must know the conclusions of the mandatory Government. It is essential for it to know this if it is to form an opinion. Further, I would put the question as follows: Can we consider that the opinion of this Government is in conformity with that which was expressed by the minority of the Commission of Enquiry during the course of that enquiry ?

Sir E. WALTON: It is difficult for me to express an opinion. I might express my own opinion, but what is required from me is the opinion of my Government and I have not been instructed on this point. What I have already said is what I have gathered from what took place in our Parliament in South Africa when the report was laid before it. There was a discussion — not a direct discussion on the report — but a discussion on the estimates, on the Prime Minister's salary, and it was moved to reduce his salary on the ground of the action taken by him. It failed, but it was on this occasion that the Prime Minister spoke, and I have already told you the main outlines of what he said. I gather, therefore, that the Prime Minister considers that the Administrator did act correctly, that he did his duty, that it was, in point of fact, by taking that action that he saved the country from a very serious calamity in the form of an outbreak, that he considers that the natives were in a very dangerous frame of mind, that if one successful operation had taken place they might have been joined by large numbers of other natives, and that there would have been a great military operation.

I would like to add, as confirming what I have said, that the Prime Minister has sent over to meet this Commission the official who was second in the territory — Major Herbst — who will subject himself to any enquiries which the Mandates Commission may like to put to him on the various points raised.

The CHAIRMAN: When Sir E. Walton stated, on November 20th, 1922, in the Assembly, that his Government had decided to throw complete light on this affair, and had for this purpose set up an impartial commission of enquiry, he asked the Assembly to suspend judgment until it could have before it the results of that enquiry. The Government has made that enquiry, and has sent the results to the Commission. You, however, reject the conclusions of this enquiry and have sent Major Herbst to give explanations.

There is a danger in this system, in that the Mandates Commission may now become itself a Commission of Enquiry.

Sir F. LUGARD said that he agreed with the Chairman.

Sir E. WALTON: I do not think you can go so far as to say that the Government has refused to accept the findings of the Commission of Enquiry, that is, of the majority. They are laid before the public, the Government sends them to the Mandates Commission and it is for the Commission, I think, to ask questions with regard to these findings from someone who is able to give it a definite reply on the points raised. I quite understand the Chairman's feeling that he does not wish this Commission to take the responsibility of making a full enquiry, but it has a report before it, a report which is not unanimous. The Commission itself wishes to come to a decision and to make its further report to the Council of the League and so on, and in order to arrive at an opinion certain disputed points are raised and on these disputed points further light can be thrown by the official who is now before the Commission.

The CHAIRMAN remarked that the Commission was in a very delicate position, being confronted with only one of the parties to the case.

Sir E. WALTON: May I just add to what I was saying that, in addition to the other documents which are laid before the Commission, there is the reply of the Administrator himself ?

M. d'ANDRADE: Sir E. Walton asked the Assembly not to express an opinion on this question before full enquiries had been made as to the facts. The Mandates Commission was instructed by the Assembly to present a report to it. I am of the opinion that it was for the South African Government to send to the Secretariat and to the Mandates Commission all the facts it was possible to obtain so as to enable the Commission to form an opinion. The South African Government has, it is true, sent the Commission the relevant documents to enable it to form an opinion. General Smuts himself has formed an opinion, but he does not wish to send it to the Commission, perhaps because such action might have appeared as a desire to influence the decisions of the Commission; it is for the Commission to present a report to the Assembly, which is the final judge.

When General Smuts was attacked in Parliament, he expressed his opinion — he entirely supported the method of procedure of the Administrator of South-West Africa, but that represented his own point of view, which he was obliged to present to Parliament. I think that the position is the following: The Mandates Commission has to make a report to the Assembly, and this report should be based on all the facts which the Government of South Africa has collected and sent to the Commission and on those which the Commission on its side can provide.

To sum up, I repeat that, with the help of the South African Government, the Commission has all the facts to enable it to form a clear idea regarding this affair. The facts are contained in the documents sent to it, and, moreover, Major Herbst is here to explain anything which may be lacking in the documents. I wish to add that the documents, such as they are, are not very conclusive and different conclusions have been drawn from them by different people. For instance, the presence here of Major Herbst shows that the Government of the Union of South Africa desired that the Commission should be fully informed of all the details of the affair.

The CHAIRMAN drew the attention of his colleagues to the following point: In accordance with the spirit in which the Commission has met, it must know whether the mandatory Power accepts or not responsibility for these events. The Commission was not bound, and ought not to be bound, by the opinion of General Smuts, but it could and should know up to what point the mandatory Power accepted the responsibility for what had happened. After the declaration made by Sir E. Walton, the Chairman thought the Commission should pass to the second part of the questionnaire:

> *"If the mandatory Power does not endorse the findings of its Commission, in what respect does it differ from them, and is it its intention further to investigate the matter ?"*

Sir E. WALTON: I do not know if the Commission will allow me to say with regard to the first point that I understand my Government does accept responsibility and does support the Administrator.

The CHAIRMAN: If I understand rightly, Sir E. Walton replies to the first question by stating "that the mandatory Power accepted the report of M. Hofmeyr".

Sir E. WALTON: I understand, but I am not prepared to say that. I would like to make my position clear. You ask whether the Government accepts responsibility. It must accept responsibility. The League of Nations gave it this country to govern; it appointed an Administrator — its own officer. Its own officer does certain things and my Government is responsible for those things. There is no question about it. It has to be responsible, it is responsible, and it is responsible to the League for what it has done, and it is represented before this Commission in order to give the fullest possible information.

The CHAIRMAN thought that there might be a shade of difference in the sense that the mandatory Power might not associate itself with the acts of its Administrator.

Sir E. WALTON: That is a point upon which I have no instructions. I have told you all that I know about it, and I think that M. d'Andrade has given the true reason why General Smuts has not sent to this Commission a statement of his views. He would probably regard it as an act of impertinence to thrust his views on this Commission which is responsible to the League for the enquiry.

Sir F. LUGARD: I think there is a difference of views. Sir E. Walton thinks the Mandates Commission is responsible for the enquiry. You, Mr. Chairman, said that it was not the function of the Mandates Commission to conduct an enquiry, partly because it has not received the views of the mandatory Power and partly because it has not the evidence of the witnesses, and finally because it has only one party to the case before it. This seems to me to be the whole point. Is the Commission conducting a judicial enquiry into this matter or is it not ? Sir E. Walton thinks it is the function of the Commission to do so. But in my view it is only possible to have an enquiry on the spot.

The CHAIRMAN: The Mandates Commission only knows the mandatory Power. It did not expect to have to ask direct questions of the officials of the Union, but expected to receive the

conclusions to which the mandatory Power had come as a result of the enquiry which it had announced that it would make and, in support of those conclusions, to have a statement of the facts which led to them.

The Commission is of opinion that its role should be confined to informing the Assembly whether the explanations provided by the mandatory Power had been found satisfactory, to reassure the Assembly in that case, and to explain why those explanations appeared satisfactory; or, should the explanations given by the mandatory Power not have appeared to be satisfactory, to inform the Assembly accordingly. It is, therefore, not sufficient for the Commission to know that the Government of the mandatory Power considers that the Administration is not blameworthy. The Commission should have been put in a position to weigh the evidence on which the mandatory Power based its opinion. The evidence should have been found in the report of the Commission of Enquiry, but the report of the Commission of Enquiry no longer exists, seeing that the mandatory Power questions its value. It is as if there had not been an enquiry. The Commission is not in a position to carry out an enquiry. The only body which can do so is the Government of the mandatory Power, since that Government has at its disposal the officials concerned, the evidence, and any native witnesses required. Nevertheless, as General Smuts has sent to the Mandates Commission so distinguished a representative as Major Herbst, he, no doubt, will be able to provide the Commission with useful information.

Do you agree, gentlemen, with what I have said ?

Sir F. LUGARD: I entirely agree, but I would add that, in asking questions of Major Herbst, we disclaim the position of conducting a new enquiry.

The other members of the Commission agreed with the Chairman.

The CHAIRMAN read the following questions:

> "(a) *Can the Minutes of the evidence taken be laid before the Commission?*
>
> "(b) *Can the report of the Native Reserves Commission (Report of Commission of Enquiry, page 27, paragraph 131) and the instructions given by the Administrator to the Chief of Police, to which allusion is made on page 16, paragraph 65, of the report, be laid before the Commission?*"

Major HERBST: The Minutes are at the disposal of the Commission. There will be no difficulty with regard to the report of the Native Reserves Commission, but I have not got it with me.

The CHAIRMAN said that for the moment he took note of this statement. He asked what instructions had been given to the Chief of Police by the Administrator.

Major HERBST: Those were verbal instructions and they have been reproduced as far as possible in the reports and in my evidence to the Commission of Enquiry.

The CHAIRMAN asked if Major Herbst had brought the instructions.

Major HERBST: No, but I can state them fully. It was realised that, before taking decisive action, the actual facts of the matter should be ascertained and the Hottentots given an opportunity of stating their side of the case. To safeguard the case still further, an officer from outside the district, viz., the Divisional Inspector of the Police Force, who was known to be sympathetic and discreet, was despatched with instructions to interview the natives concerned, to enquire into any allegations they might make, to explain the danger to which any opposition to the instructions of the Government might expose them, and generally to secure amicably the surrender of Morris and the men who had resisted the police, if the police report were found to be correct. Failing this, he was to effect the arrest by force, if possible.

M. d'ANDRADE: Was not Morris one of the chief leaders of the revolt against the Germans ? Did he not flee to the Cape, where he remained for several years ?

Major HERBST: Yes. He was there until the eve of the revolt.

M. d'ANDRADE: When he decided to return, did he ask leave of the Cape or of the South-West authorities ?

Major HERBST: He asked no permission.

M. d'ANDRADE: Did the Bondelzwarts agitation correspond with the return of Morris ?

Major HERBST: That was the cause of the whole trouble.

M. d'ANDRADE: Did he take advantage of the discontent aroused by the dog tax and other measures to provoke a rising ?

Major HERBST: It is difficult to apportion the share of the responsibility for the rising between Christian and Morris, who came from the Union. My own personal opinion was that it was engineered in the Warmbad district, but they had no one with any prestige who would have secured a following, so they had to turn to Morris for military leadership. He had an

enormous prestige, acquired during the rebellion against the German authorities. I do not consider he was an instigator at all.

The CHAIRMAN put the following question:

> *"Was it within the powers of the Administrator to order a punitive expedition so serious, without having referred the matter previously to the Government of the mandatory Power? If not, was the expedition ordered or authorised by the Government of the mandatory Power?"*

Major HERBST: I think the Administrator would have been acting within his rights if he had done so. Of course, the affair only developed into a military matter after the arrival of the Administrator in the district. I had no idea that there was going to be any military action at all.

The CHAIRMAN: What was your position at the time ?

Major HERBST: I was Secretary to the Administration, and when I left Windhoek, the idea of using force on such a scale had never entered my mind.

The CHAIRMAN asked whether, when the Administrator and he started, they were accompanied by an armed force, or was it collected when it was realised what course events were taking ?

Major HERBST: The Administrator took a force — mostly civil servants.

The CHAIRMAN: Were those all the forces who accompanied him ?

Major HERBST: The Administrator took about 60 men with him. More were collected afterwards when the matter became more serious.

M. van REES: When was military action begun ? Was it when Major Herbst and the Administrator were at Windhoek or before ?

Major HERBST: We only took military measures at Kalkfontein. The natives had gone into lager; only then did we take active steps.

M. van REES: What were the military steps ?

Major HERBST: We telegraphed to the military authorities in Pretoria for aeroplanes, and we took steps to call out burghers and buy up horses.

M. van REES: Had there been any fighting up to that time ?

Major HERBST: None at all.

M. van REES: Then you asked for aeroplanes before there had been actual fighting ?

Major HERBST: We asked for them when we realised that the natives were in lager and would fight.

The CHAIRMAN: When you asked for aeroplanes, had all the attempts to effect pacification which were contained in the instructions to the police been tried ?

Major HERBST: There was then no communication.

The CHAIRMAN: Had Bishop Krolikowski already returned ?

Major HERBST: Yes. Our last communication to Jacobus Christian was that the Administrator would meet him, if he so desired, but we received no reply. The natives were very frightened of aeroplanes.

M. d'ANDRADE: Did you ask for aeroplanes with a view to intimidating the natives rather than actually in order to bomb them ?

Major HERBST: The idea was to surround them with troops and then to bomb them and induce a surrender. We were afraid that they would follow the same tactics as they did against the Germans, and proceed to the mouth of the Orange River, where they would send out raiding parties to collect arms, and keep up a guerrilla warfare for a very long time.

The CHAIRMAN wished to know, when the Administrator had left his residence because he had found symptoms of agitation among the natives, whether that agitation was caused solely by the dog tax.

Major HERBST: Natives allow grievances to accumulate for a long time. They brood over them, magnify them and become obsessed by them ; so it is difficult to say, when a rising takes place, what is the exact cause. It may be the accumulation of years or something one would regard as insignificant. In the case of these natives one has always to bear in mind that one day

they tire of a white man about their necks all day long. Although we imagine we are there for their benefit, they do not always think so, and they like to remember the days when they were in possession of that part of the country and roamed it at will.

M. van Rees: I wish to put several precise questions which will perhaps clear up part of the causes of the discontent which has been recognised by the Commission, and also by Major Herbst himself. The Bondelzwarts did not pay a dog tax under the German regime. In 1917, they were made to pay 5s. a dog, except for the first dog. In 1921, the Administrator, after making a tour of the southern part of the territory, imposed a tax of £1 for the first dog, and £10 for five dogs, that is to say, a very high tax indeed. He speaks himself of a "heavy" tax which was reduced by 50 % from February 20th, 1922. What was the predominant reason for this tax ? Was it imposed simply to protect the game, or was it hoped by this means to compel the people to work ?

Major Herbst: It was twofold. In regard to the dog tax, there is no doubt that it was very high, but the circumstances under which it was imposed must be taken into consideration. During the German and also during our semi-military regime, native dogs were destroyed by farm owners and police whenever their numbers were considered to be excessive. There was therefore no necessity for a tax to limit the number. After our occupation, farmers complained to our police and officials about the enormous increase of dogs and begged for police action. They found that, when they themselves took action, the natives left their service. Vast numbers of dogs were shot and the police became very unpopular. When the Administrator toured the country in 1921, the cry throughout the land raised by the farmers was the great damage done to game by the hordes of native-owned dogs roaming the veldt. They complained that the police were no longer doing this work and that when the farmer took action his servants left him. As a result of this outcry, the Administrator decided to impose a stringent dog tax to operate for a few years until the number of dogs was sufficiently reduced. The indiscriminate shooting of dogs by police and others, which greatly disturbed the natives, was felt to be unwise, and it was considered that those who wished to keep dogs should pay for them, European and native alike. The tax, of course, was as unpopular with the European as with the native, and many farmers complained that, with the reduction in the number of dogs, jackals and other vermin were increasing considerably. Native dogs are invariably hunting dogs, and it is common knowledge that very great damage is done to game by their depredations, but they, at the same time, effectively reduce the vermin. In February 1922, the tax was reduced by 50 % in pursuance of the original intention of the Administrator. This was communicated to the Bondelzwarts especially by letter through the magistrate of Warmbad.

The Chairman: Were the Bondelzwarts in a reserve ?

Major Herbst: Yes, but the tax was not aimed at the Bondelzwarts especially.

The Chairman: If there were a system of reserves, did the dogs which ought to remain in the reserves carry out depredations outside them, and then return to the reserves ? Did the police go into the reserves to kill the dogs, or were the dogs killed outside ?

Major Herbst: Dogs were killed from time to time whether they were outside the reserve or not. As a rule, there is no game on a reserve, because it cannot exist. The natives who live on the reserves are only a small proportion of the natives living in the country. The Bondelzwarts were never in mind when the proclamation was made. The law was directed at people who went about the country killing game on Crown lands and private farms.

The Chairman noted that police measures regarding the dogs similar to those in force in European capitals were applied.

Major Herbst: In the two northern reserves the natives were left alone. The Osondels and similar reserves were created after their rebellion against the Germans, and in these our laws operate — the same laws as apply to Europeans.

M. van Rees: If it were recognised in February 1922 that the dog tax was 50 % too high, why was it double in April 1921, and on what scale was the first tax based ?

Major Herbst: It was made so high that it would tend to reduce the number of dogs.

M. van Rees: The Commission of Enquiry says, in paragraph 32 of its report, that, at the instigation of the Chief Native Commissioner and of the magistrate at Warmbad, the Bondelzwarts had done everything possible to find the money to pay the tax. The Commission points out the reasons why they had been unable to find the necessary money. The Administrator must have known those reasons. He knew what means of existence were possessed by the

Bondelzwarts. Why did he not stop the prosecutions against those who were behindhand with their payments ? These prosecutions began on September 19th, 1921, that was to say, five and a half months after the entry into force of the new scale of tax. Did not the regulations regarding this tax provide a reasonable and just period for permitting persons to pay it ?

Major HERBST: I must say we were surprised when we heard of the number of prosecutions that had taken place, but the line was taken that it was passive resistance rather than incapacity to pay in a number of cases. Furthermore, the idea was that, if they were too poor to pay for dogs, why should they keep dogs ?

The CHAIRMAN: If they are only hunting dogs, they do not require food, but find it for themselves.

Major HERBST: As a rule. In the course of a tour we came to a farm where a European had ten well-bred hunting dogs, and during a conversation he said: "You see all these dogs here—they can pull down a buck at any time."

The CHAIRMAN: They do not, then, need to be kept if they can kill a buck.

Major HERBST: The dogs are a source of profit.

M. van REES: I should like simply to point out that, in accordance with his own report page 3, paragraph 21, the Administrator had been informed, by a telegram which he had received at the beginning of June 1921, of the reasons why the Bondelzwarts could not pay.

Major HERBST: We recognised that it might lead to that, but the rest of the country paid the tax ; only the Bondelzwarts were giving trouble and they were no poorer than the rest of the community ; in fact, when the rising took place, they were already aware that the tax had been reduced by 50 %. They made representations and we wrote telling them the tax had been reduced.

M. van REES: In any case, during the period between September 19th, 1921, and January 23rd, 1922, more than 100 persons were condemned to pay fines averaging £2 sterling, or to fourteen days' imprisonment. I wonder if any account was taken of the effect that such conduct might have on a poverty-stricken people who were discontented and in a state of agitation for other reasons. As regarded the branding-irons, the natives were compelled to pay thirty shillings, the same price as that charged to Europeans. But it was thought best as a police measure to keep the branding-irons belonging to the natives. Why had they therefore to pay the same price ?

Major HERBST: Because of the cost of making the iron ; this is fixed by law. I think the Commission of Enquiry comments on it. With regard to the retention of the branding-irons by the magistrate, this is the procedure which I venture to submit that every friend of the native should welcome. The possession of stock by a native is not welcomed by farmers, and so, under the German regime, the ownership of stock by natives was legally forbidden, though, in practice, this was not always given effect. We reversed that policy, and, as a result, natives own about a million small and about 50,000 large head, exclusive of those in Ovamboland. As the possession of means of subsistence renders a native immune from labour, our policy is viewed with great dissatisfaction amongst employers of labour. It is generally and openly asserted that these numbers have been attained by stealing. Charges are always levied against reserves as being the harbouring place of the stock lost from time to time by farmers. What reply would the native have to such a charge if he branded his own stock ? His reply and the reply of the Administration now is: "Before a brand is put upon the stock of a native, he is required to satisfy the officials that he came by it legitimately." It is a complete answer. It is a protection to himself and affords the Administration the means of combating the propaganda against the natives. The criticism is founded upon sentiement, and is unjust, if local conditions are taken into account. The Administrator has now, however, issued instructions that no charge is to be made for the branding-irons on the reserves, and that the amount already collected is to be refunded. The branding-irons will then remain the property of the Administration.

M. van REES: Do the police keep them ?

Major HERBST: Yes, or the magistrate.

M. van REES: In his memorandum the Administrator (see page 21) does not contest the statement of the Commission of Enquiry which is contained in paragraph 35 of its report. Is it to be concluded that he recognised the justice of these remarks ? In that case, what explanations are there of the fact that nothing appears to have been modified ?

Major HERBST: I would submit that the intention of the Administration was perfectly honest in the matter : the local conditions demanded such a regulation.

The CHAIRMAN: From Article 35 of the report of the Commission of Enquiry, it could be inferred that the natives were first asked to purchase an article and later refused possession of it. This might be a cause of agitation among the Bondelzwarts.

M. van REES: Has the rule since been modified ?

Major HERBST: Yes. Apparently the public are prepared to pay for the privilege of giving the natives the branding-irons free. Europeans mark their own stock.

Sir F. LUGARD: I have one question to ask. I think it is clear to anyone who reads this report that the general feeling of the ignorant farmers was that the natives were there chiefly as labourers for themselves.

Major HERBST: It was not only the ignorant farmers, it was also the educated farmers who thought that.

Sir F. LUGARD: That must have been a very great difficulty for the Administration; but I observe also that this opinion seems to have been shared by M. Hofmeyr, whose views, we are given to understand, are supported by the mandatory Power. On page 2 of the Administrator's report he says that he explained to the people in the reserve that it was their duty to take service with the white man, and when they complained that they had not been paid, and he was shown marks of flogging, he merely said he would give instructions to the magistrate to protect them in the future. On page 2 of his reply to the enquiry, he remarks that the bulk of the natives must be provided with separate areas, "except those required for labour purposes", and lower down he says that in the reserves they will breed healthy children "representing potential labourers in the future". It would seem therefore that the Administrator himself shared the farmers' views of the natives.

Major HERBST: If you work in a country where 90 % of the European population is against your policy, you must point out to them any benefits accruing to them indirectly from such a policy.

Sir F. LUGARD: Would General Smuts endorse that view ?

Major HERBST: You have got to point out the benefits that will accrue to both sides.

M. ORTS: The observation which Major Herbst has just made shows how desirable it was for the Commission to have obtained a sincere opinion from the mandatory Power expressed independently of all considerations outside the Commission, such as the necessity for sparing the feelings, if not prejudicing them, of a small portion of the population.

Major HERBST: Yes ; the point is this: unless it is possible to show both sides that certain benefits are going to accrue from a certain policy, there will be propaganda.

The CHAIRMAN put the following question:

> *It seems evident that the farmers who flocked into South-West Africa after the war were too poor to be able to pay adequate salaries to the labourers. Were those labourers recruited or allocated to the farmers by the Government ?* (Page 10, paragraph 40, page 11, paragraph 44, of the report of the Commission of Enquiry, and page 7, paragraph 16, of the report of the Administrator.) *When the salary was inadequate, did the Government take any steps to relieve them ? Were they free to leave their employers ?*

Major HERBST: We do not recruit labour for the farmers. Each farmer and each individual employer of labour recruits his own.

The CHAIRMAN: What did the Government do when the wage paid proved insufficient to better the situation of the labourers ?

Major HERBST: At most of the meetings held in the reserves, and all over the country, this point was brought out by the natives, and the Administrator informed them that, if they made a contract and any of the terms of the contract were broken by the employer, they had recourse to the ordinary law courts. They can complain at the magistrate's office and steps are taken against the master. The Masters and Servants Act penal clauses provide for damages, the wages being ordered by the court and also the costs.

The CHAIRMAN: Were the labourers free to leave their masters ?

Major HERBST: If they could satisfy the court afterwards that there had been a breach of agreement by the master, they would be justified in leaving. Then the unfortunate position arose of a farmer and a native going into court and one swearing exactly the opposite of the other.

Mr. GRIMSHAW: Were these natives sufficiently well educated to know what a court was and to be able to plead in a court ?

Major HERBST: It is commonly alleged that they are too apt to run to court — that they run to court for every little thing; that was a complaint we received against our system.

Mr. GRIMSHAW: Have you had a number of cases ?

Major HERBST: We have had a fair number, but we do not like these masters and servants cases. In 1916, when we entered that country, I drew up a memorandum dated August 3rd, 1916, addressed to all the magistrates and officials. I mentioned in paragraph 1 that certain of the German Native Laws were satisfactory, on paper at least, and it is generally admitted that they were scarcely applied, except, perhaps, those allowing the flogging of natives or those by which the master would be benefited. The instances where the servant obtained the very fair and just rights to which he was entitled under those laws are found to have been few in number.

The right or authority delegated to certain officials to flog or chain natives for certain offences was indulged in to the extreme by practically every member of the Police Force in the most trivial cases of complaint by masters. The natives were thus kept in a state of abject fear, and no opportunity of redress was open to them, as they dared not go to the police with their complaints. The ill-treatment experienced by them under the former regime, which gave no redress, has made them disinclined to work for German masters, to whom they are now barely civil.

M. ORTS: Major Herbst has described very well the feelings existing between the farmers and the natives. The farmers tended to consider the natives as slaves and the natives considered the masters as enemies. I wonder why the natives entered into labour contracts in these circumstances. Did they do so freely ?

Major HERBST: They concluded contracts before the Native Affairs Officers. During the military occupation our officers practically recruited, and, as was said this morning, there was a little forcible persuasion.

M. BEAU: Has this state of things — this, so to speak, compulsory persuasion — now ceased ?

Major HERBST: Yes, with the withdrawal of martial law.

The CHAIRMAN noted briefly that the discontent which was apparent was due to several causes — the result of the war, the change of masters, the local conditions, the dog tax, etc., and, as happens in European countries, some of them were very slight. It would, however, be interesting to have a reply to the following question:

> *"What are the facts which enabled it to be inferred in the official documents that the action of the Bondelzwarts constituted an armed rebellion ? Could not a conflict have been avoided if other measures had been taken by the Administration, such as, for example, a personal interview with the Administrator?"*

Major HERBST: We did everything in our power to secure a personal interview between Christian and the Administrator.

The CHAIRMAN noted that, according to Major Herbst, the most serious events would not have occurred if the Administration had been successful in coming into contact with Christian.

Major HERBST: I personally am satisfied that if Christian had come into contact with the Administrator military operations would not have been necessary, and the trouble would have been avoided.

The CHAIRMAN: Why was that not possible ?

Major HERBST: Because he refused to come. He put the magistrate and an emissary of the Government under escort; if the Administrator had gone into his camp, probably the same would have been done to him, and he could never have gone back to Windhoek if that had taken place.

The CHAIRMAN: What I do not understand is what the rebels wanted. What did they want ? Merely the abolition of the dog tax ?

Major HERBST: We asked them to meet the Administrator and to tell him what their grievances were. At first we had a suspicion that probably they had got into conflict with the police, and that something had happened through some irresponsible action of the police. That was the first thing which occurred to me. Therefore we said to Major von Coller: "Find out what happened, and enquire into it", but apparently they never mentioned to Major von Coller that anything had happened, but the tribe supported the action of the natives who had resisted arrest and who were there and refused to deliver up Morris. The whole point on which they went to war was that they refused to deliver up Morris to the police authorities.

M. ORTS: Major Herbst says that he does not know the cause for the rebellion. Was it not one of these cases of collective loss of reason on the part of an ignorant population most anxious to throw off the European yoke ?

Major HERBST: I do not know that they actually thought they could do that. Probably they thought that, by rebelling and resisting authority, certain negotiations might take place whereby they could get certain things. They wanted Christian recognised by us as the Chief of the Bondelzwarts tribe and the tribe reconstituted.

The CHAIRMAN: According to Major Herbst, then, the position was as follows : the administration refused to recognise a chief chosen by the natives.

Major HERBST: The fact that Morris came in to assist Christian brought Morris into conflict with the police and brought the whole thing to a head.

The CHAIRMAN: In what did the Morris revolt against the law consist ?

Major HERBST: Morris contravened the law by coming into the territory. He contravened three laws: first, bringing rifles into the territory without a permit; he and his party brought 16 rifles, as the Commission admits in their report. Sixteen men with sixteen rifles came in with Morris from the Union, and our contention is that this was not peaceful penetration. Secondly, he brought cattle over the Union border into the territory, which is against the law. Cattle must be examined by a veterinary officer on one side of the border and a permit obtained from the magistrate before they can cross over into the territory. Thirdly, by entering himself without a permit. Morris therefore brought himself into conflict with the police for contravening the law. His attempted arrest followed. That attempt undoubtedly hastened the whole matter. Probably the Hottentots would have taken months to carry out negotiations with us with Morris in the background, but the fact that the police took immediate action when Morris came in brought the whole matter to a head much sooner than it would otherwise have done. It was, no doubt, a point of honour with Christian that, having asked Morris to come and assist him, he should not deliver him up.

M. d'ANDRADE: I want to know if Major Herbst can tell us when the natives collected in the lager. At a given moment they left their houses and families and collected, with arms, in fortified camps. That was equivalent to a declaration of war or a threat of war. In any case it was defiance of the Government. They made a declaration of war, or else they were afraid that war was going to be declared on them. This was a most significant action. I wish to know if any messages were sent to them before or during their sojourn in the lager.

Major HERBST: Major von Coller sent a message to Christian informing him of his arrival and asking him to meet him. That message found the Hottentots already in a state of preparation for war. They were sending people out to get arms from the farmers round about. When Major von Coller went himself, he found them, as I say, in their lager where they escorted him. Further, even Mgr. Krolikowski strongly advised Major von Coller not to enter the laager.

The CHAIRMAN: How many were there in the camp ?

Major HERBST: When we arrived at Kalkfontein and began to collect information as to their strength, we were assured by the farmers round about that there were about 500 to 600 armed men. That was the farmers' report. They said that they had brought arms from the Union. I am only giving you the information we received. I pointed out the absurdity of that, as we knew the natives had very few arms. The farmers said that they had unearthed a large number of rifles which had been buried during the war, arms abandoned by the Germans and also ammunition.

The CHAIRMAN: How many combatants did you estimate ?

Major HERBST: It will be seen from the evidence that there were 100 killed and that 468 surrendered, that is 568 fighting men.

The CHAIRMAN: The Commission has not been able to find the figures.

Major HERBST: These figures are in the evidence.

The CHAIRMAN: Can Major Herbst tell us how many arms were taken from the dead, the wounded and the prisoners ?

Major HERBST: It is difficult to estimate, as everyone knows that when the Hottentot decides to surrender he buries his rifle.

The CHAIRMAN: Were the Hottentots all armed ?

Major HERBST: I think we got about 40 rifles. On reference to the report, we accounted for about 70. The estimate was that there were about 200 men with rifles, but they were short of ammunition.

The CHAIRMAN: Besides the prisoners, did many escape ? What arms did the rest possess ?

Major HERBST: The others were not armed at all; they merely accompanied the fighting men. In no single instance where the Hottentot has begun war has he had more than a few rifles.

The CHAIRMAN: The rebels attacked the troops, then, without arms ?

Major HERBST: In isolated cases — when a few armed men attacked soldiers escorting a wagon-load of provisions. They then captured their arms.

The CHAIRMAN: Apart from the prisoners, the dead and the wounded, how many escaped with their arms ?

Major HERBST: It is very difficult to say. Some went back to the Union. We know of cases where the men who came from the Union simply went back, but they invariably buried their weapons; they could not carry them into the Union.

The CHAIRMAN: To sum up, there were about 500 or 600 individuals involved, of whom only 200 were armed and only 45 arms were found.

Major HERBST: Probably about 200 — that is my impression

The CHAIRMAN: Can Major Herbst give us the exact figures for the numbers of men fighting on the side of the Government ? Of what did the troops consist at the moment when the engagement took place ? How were those troops armed until the Government forces arrived ?

Major HERBST : That is given in Major von Coller's report — page 16 of the Administrator's report — 32 officers and 358 other ranks. We had four old German machine-guns. Two of them had to be abandoned.

The CHAIRMAN: There were 32 officers and 358 other ranks, making in all 390. How were they armed ? Did they possess machine-guns ? How many were killed and wounded as a result of the conflict — that is, killed as a direct result of the fighting and not through illness or accident?

Major HERBST: We had two killed and four or five wounded.

The CHAIRMAN: How long did the occupation continue, how many aeroplanes were there, and what kind were used ? Were they scouting or bombing aeroplanes ?

Major HERBST: About a week: there was only fighting on three days. We got up two bomb-carrying aeroplanes.

The CHAIRMAN: Did the natives fire on the aeroplanes when they circled low over them ? In what conditions did the bombardment take place ? Did the natives know what they were doing, or were they attacked ?

Major HERBST: One aeroplane was injured through flying against the telegraph wires, and so two more were brought up. Four came up, but only two were used at a time: the personnel was only for two aeroplanes. I have already indicated the reasons which necessitated the use of aeroplanes. It is wholly impossible for the Administration to keep in the country a military force with only the rifle or the machine or other gun considered as legitimate weapons. Economy has dictated the withdrawal in Mesopotamia of the infantrymen and other arms, and the substitution of the aeroplane, which has bombed villages, etc., exactly as was done in South-West Africa.

The CHAIRMAN: Whom did they bomb ? The combatants ?

Major HERBST: The occupied position of the Bondelzwarts.

The CHAIRMAN: Were not women and children killed ?

Major HERBST: There were women and children present in the laager, only we did not know it; it was the occupied position of the enemy that was bombed.

The CHAIRMAN: We have seen the number of the prisoners and dead among the Bondelzwart fighters. Can you tell me the number of dead and wounded among the non-combatants ?

Major HERBST: Seven women and children wounded, two children dead. Some wounded women may have gone on with the men.

The CHAIRMAN: How many bombs were dropped ?

Major HERBST: On the first day I should say about sixteen. The position should have been seen; it was hardly possible to kill anybody. The position consisted of kopjes, and on these kopjes were huge stones. One could not see anything to bomb. It was merely by chance that anything was hit at all.

Sir F. LUGARD: Major Herbst has told us that he was confident that the whole affair would never have occurred at all if it had been possible to secure an interview between the Administrator and Jacobus Christian. When he found that there was hesitation about Christian coming in, was it not possible for the Administrator himself to have gone out to see him ?

Major HERBST: We had no intimation that Christian wanted to or would see him.

Sir F. LUGARD: If you felt sure that the whole affair could be settled by an interview, would not it have been possible or worth while for the Administrator to have sunk a little dignity, if need be, and gone to see Christian ?

Major HERBST: It meant more than sinking a little dignity, because about a week previously a police officer and the magistrate both had been escorted by armed natives; it would have been an intolerable position. We did know they had actually taken up arms, but the Administrator did not really think it was dangerous. He did think, however, that it would have been undignified and that his position with the Europeans would have been absolutely intolerable. We did our best to secure an interview between Christian and the Administrator. I personally, at the very last moment, after we arrived at Kalkfontein, told the Administrator's private secretary to go up to the telephone office and tell the Native Affairs Officer, who was still with the Hottentots, that the Administrator was there at Kalkfontein and was prepared to see him anywhere he mentioned of which the Administrator would approve. That was the last message we sent through to Christian.

Sir F. LUGARD: And you thought it was quite possible for him to come ?

Major HERBST: My view was that the position really was not so bad. I quite recognise now that I was mistaken. These people had evidently meant business.

Sir F. LUGARD: Would his tribe have let him come ?

Major HERBST: You will see by the evidence that Christian himself says: "My tribe would not let me go". I should like to point out, with regard to the criticisms, that the Administrator was only too anxious to have a peaceful settlement. The fact that he asked Bishop Krolokowski to accompany Major von Coller shows that his whole intention was that the matter should be settled amicably if possible. Furthermore, the fact that the Bondelzwarts were in arms at that particular moment was the chief reason why the Administrator did not himself go and get into contact with Christian.

The CHAIRMAN: In the reports an opinion is expressed by General Lemmer which does not agree with that of the Administrator. How could this difference be explained ?

Major HERBST: M. Hofmeyr was heard by the Commission at Pretoria, but he was never told of the allegations nor of the opinion which the Commission had formed on that evidence. No one realised that there was going to be any criticism at all. The Commission unfortunately, on their arrival, before they had any experience of local native conditions and had heard the criticism of the Administration, took my evidence first. I was the first witness called; they knew nothing about the administration of the country, and were really not yet in a position to cross-examine me. I did not know what opinions they would form on evidence which they would obtain later. It would have been very much better if they had returned and recalled me thereafter.

The CHAIRMAN: Who appointed the Commission of Enquiry ?

Major HERBST: General Smuts chose the Commission.

The CHAIRMAN: Did General Smuts choose persons who knew nothing of the question to make an enquiry of such an important nature ?

Major HERBST: Nobody in the Union knew anything about the Administration in South-West Africa. Anybody appointed on a Commission would have had to go up and enquire locally for information. We are not subject to departmental supervision from the Union at all.

Sir F. LUGARD: I think there is a misunderstanding of the English in M. Hofmeyr's report. At the top of page 2 he says : "No information on this point was sought from me", and afterwards on page 8 he says : "Had the Commission given me an opportunity of discussing this". I do not

think he means there to deny that he was called to give evidence, but that on this particular point his evidence was never asked.

Major HERBST : That is correct, and I think a good deal of the report is based on insufficient information and the want of knowledge of local conditions.

M. ORTS : If, as Major Herbst says, this report is based on inadequate information and if it is the work of people ignorant of local conditions, it is to be regretted that it was sent to the Mandates Commission. Such a communication, made without any reservations, was liable to mislead the Commission.

Mme. BUGGE-WICKSELL: Major Herbst has said that the actual cause of the whole unrest of the Bondelzwarts was their wish to be recognised as a tribe, and to have Christian recognised as their proper chief.

Major HERBST: Particularly to have Christian recognised as their chief.

Mme. BUGGE-WICKSELL: Is this an idea that came to you after the affair had begun ?

Major HERBST: This had been demonstrated before. I say that military measures had already been begun when we arrived. By that I think they meant business.

Mme. BUGGE-WICKSELL: Had the Administration that conviction earlier, even before Morris crossed the frontier ?

Major HERBST : We knew they had made frequent applications for him to be made chief; we knew they were dissatisfied.

Mme. BUGGE-WICKSELL: If you had that knowledge, but did not think it possible to comply with their wish, why did you permit him to stay in the territory ?

Major HERBST: We explained to him that, on no account, would the Government permit him to resume his old functions as chief. We were advised not to appoint him, as he was a dangerous man.

M. d'ANDRADE: When M. Hofmeyr marched against the Bondelzwarts, had the Bondelzwarts marched against him — that is to say, who fired the first shot ?

Major HERBST: You will find, in the report of the Commission of Enquiry, that, on the same day that our patrol went to Driehoek, Morris was already on his way to attack Warmbad.

The CHAIRMAN: How were they marching ?

Major HERBST: Armed. That was the information the Commission got from the natives — that actually before any fighting had taken place Morris was on his way. We did not know it.

NINETEENTH MEETING (Private)

held at Geneva on Wednesday, August 1st, 1923, at 10 a.m.

Present: All the members of the Commission, except Count de Ballobar.

178. Enquiry regarding the Bondelzwarts Rebellion of 1922 : Audition of Major Herbst (*continued*).

Sir E. Walton and Major Herbst came to the table.

The Chairman proposed to begin with the consideration of the questionnaire concerning the remedial measures suggested by the Commission of Enquiry and the Assembly of the League (Annex 8 *a*).

M. Orts pointed out that the course of the discussion had already led the Commission to consider certain points raised in the questionnaire; for example, the revision of the tax on dogs, and branding-irons and the creation of native reserves had already been discussed. He assumed that these points would not be raised.

The Commission agreed.

Question 1 : (*a*) *"Minimum wage and standard ration for labourers."*

Major Herbst said that the recommendations of the Labour Office on this particular point had not been exactly adopted. Employment in the territory consisted chiefly of work in the mines. Agricultural work was presumably excluded from the scope of the recommendations. Women and children might work on the farms without any detriment to their health.

The labour question was really one of supply and demand. In the mines there were Europeans as well as natives employed. The Europeans made their own contracts, with which the Administration did not interfere. Native contracts were supervised by the Administration. The terms of the contract could be defined by the Administration, which saw that a proper wage was paid and that suitable accommodation was provided. All these conditions were laid down in the Labour Act for the mining areas. They were the same for the mandated territory as for South Africa.

Replying to Sir F. Lugard, Major Herbst said that it was impossible to fix a minimum wage for unskilled farm labour. The conditions of labour were in practice standard conditions among all the farmers. The native obtained a fixed wage and in addition received food and clothes. If the employer failed to supply the native adequately, he might complain to the magistrate and seek a remedy under the law for masters and servants.

Question 1 : (*b*) *"Strong Native Affairs Department, with three or four good men working in the native districts."*

Major Herbst said that the authorities believed that the existing department was sufficiently strong. It was difficult to know what was meant by this recommendation of the Commission of Enquiry. The Commission had not consulted the Administration in making the recommendation.

The present organisation was as follows:— the Secretary was responsible to the Administrator for all the sub-departments, including the sub-department of native affairs. There was also a Native Commissioner, Major Manning, who dealt directly with the magistrates individually in charge of the various districts. The magistrate was responsible to the Administration for the

conduct both of European and native affairs in each district. Additional officers were appointed where there was a big native population or where a number of natives were temporarily employed. These officers were under the control of the magistrate. There was also a superintendent of reserves.

Sir F. LUGARD asked what was the total number of officers for native affairs.

Major HERBST said that there were 18 districts, each of which had its magistrate.

The CHAIRMAN asked how the officers and the magistrates administering native affairs were recruited.

Major HERBST said that during the military occupation temporary men were obtained who had been in South-West Africa on military service. At present, however, every official was a member of the Union Civil Service, and the Union Act regulating civil servants was in force in the mandated territory. Magistrates were legally qualified magistrates from the Union.

He did not see what addition could usefully be made to the staff of the Native Affairs Department. A Civil Service Commission of the Union had recently visited the territory and had not recommended any increase of staff.

M. ORTS enquired whether the Chairman of the Commission of Enquiry belonged to the Union Civil Service.

Major HERBST said that he was not a civil servant, but had been appointed for a certain number of years as a member of the Native Affairs Commission of the Union. All three members of the Commission of Enquiry were in the same position. They advised the minister in regard to administration.

M. ORTS asked whether the Chairman of the Commission of Enquiry had a recognised competence as regards native affairs.

Major HERBST said that certainly he did not question the competence of the Commission. He only complained that the Commission had not sufficient information before it. The question under discussion was not within the terms of reference of the Commission and no complete enquiry on the subject had been made, as was stated by General Lemmer.

Sir F. LUGARD suggested that the most important witness would be Major Manning, who was the head of the Native Affairs Department of the mandated territory.

Major HERBST said that Major Manning was an executive officer in that branch of the administration. Major Manning's report was made before the incidents connected with the Bondelzwarts affair took place, viz., over a year earlier.

M. d'ANDRADE asked Major Herbst whether he thought that the enquiry had been inadequate and whether there should be a supplementary enquiry.

Major HERBST said that he had not been heard by the Commission of Enquiry except at the beginning, before it had sufficient knowledge to ask questions with regard to the Administration. He had therefore been unable to discuss the question of the Administration with the Commission.

Sir F. LUGARD pointed out that the same complaint had been made by M. Hofmeyr.

M. d'ANDRADE thought that in this case it would perhaps be well to order a supplementary enquiry.

Major HERBST did not think so, as the Civil Service Commission, which was reponsible for making recommendations with regard to the staffing of Government departments, visited the territory, but made no recommendations for an increase of staff. They considered the staff sufficient.

He himself had no authority to make any increases of staff without a report from the Civil Service Commission saying that it agreed as to the necessity of such increase. Personally, he did not think that any increase was necessary.

The CHAIRMAN asked whether the Commission of Enquiry had discussed with Major Manning the question of an increase in and reorganisation of the staff concerned with native questions.

Major HERBST said that Major Manning gave evidence before the Commission, but that he himself would be the responsible officer with whom to discuss the matter.

The CHAIRMAN asked whether the Commission of Enquiry had conducted an investigation on the spot.

Major HERBST said that the Commission had taken evidence at Windhoek and at Warmbad. They also visited the territory where the fighting took place. The evidence of some of the officers engaged in the fighting was taken at Windhoek and not on the spot, as it was feared that their presence with the Commission on the spot would give a wrong impression to the natives.

The CHAIRMAN asked whether the Commission had questioned the natives.

Major HERBST said that a large number of natives had been interrogated.

Sir F. LUGARD asked whether the opinion of Major Manning, as head of the Native Affairs Department, would not have been extremely valuable on the question of the strengthening of the native department.

Major HERBST said that he himself, as Secretary of the Administration, would have the final word in such a matter.

The CHAIRMAN enquired whether the Department of Native Affairs included officials who dealt only with native questions and native districts.

Major HERBST stated that Major Manning dealt solely with native affairs.

M. van REES said that the Mandates Commission had been told that the officials of the Union knew nothing of local conditions in the mandated territory, and that for this reason the Commission of Enquiry had been described as incompetent. If this were so, he did not quite understand how the Civil Service Commission, which was also composed of Union officials, could be regarded as competent.

Major HERBST explained that the Commission of Enquiry had to deal with persons and public events, and would have to acquire a good deal more information for this purpose than the Civil Service Commission, which had dealt purely with office work and with documentary matters. The question was not one of the competency of the personnel, but concerned the collection by the Commission of Enquiry of information in order to qualify itself to express an opinion.

Question 1 (*c*) : *Organisation of some kind of autonomous tribal organisation*

The CHAIRMAN asked whether there was any means of giving this tribe some kind of organisation. The group numbered scarcely 1,500 persons. Were there several tribes, or did this figure represent a community which was independent and self-contained ? Could they be grouped together and given some autonomy ?

Major HERBST said that he had already explained that there were tribal organisations still existing. This was not one of them.

The CHAIRMAN wished to know whether it was possible to give some autonomy to these particular natives, *i.e.*, was it possible to give an affirmative reply to question 1 (*c*) ?

Major HERBST stated that here, as in the rest of the territory, these tribes had been broken up by the previous Government, owing to the constant wars in which they had engaged.

The CHAIRMAN asked what was the personal opinion of Major Herbst with regard to the recommendation of the Commission of Enquiry.

Major HERBST said that opinion differed considerably in South Africa. Personally, he preferred the tribal system of Government, where it could be carried on under original tribal conditions. It was better for the natives themselves and for the Government.

The CHAIRMAN asked what were the practical difficulties in the way of carrying out this recommendation.

Major HERBST said it was not possible for Europeans by their own acts to restore a tribe to its primitive condition. Such a restoration was not possible as regards the Hottentots, and the broken tribes in the south.

The CHAIRMAN asked whether there was a tendency for this tribe to reconstitute itself, or was it so far disorganised and scattered that reconstruction was impossible ? There were apparently two opinions in the Commission of Enquiry. Moreover, Christian and Morris appeared to regard themselves as chiefs of the tribe, and the trouble had arisen from the reluctance of the natives to surrender them.

Major HERBST said that most of these natives, particularly the Bondelzwarts, desired to revert to the old system, but from the economic and from every other point of view this was impracticable. These native chiefs had no authority so far as the administration of justice was concerned. Christian might regard himself as a chief, but he could not enforce any of his judgments.

Mme. BUGGE-WICKSELL inquired why Christian had been allowed to remain in the country in that ambiguous position. Would it not have been less dangerous to give him responsibility in the administration ?

Major HERBST explained that provisions had been made by treaty for the return of these chiefs, who had fled owing to war conditions. It would have been very difficult for the Administration to refuse Christian the right to return. He was merely an exile.

Mme. BUGGE-WICKSELL inquired whether it would not have been better to have made him a chief recognised by the Administration and responsible to it.

Major HERBST said that public opinion was too strong against that course. He could only have been appointed chief in the face of the opinion of the magistrate and of the police officer and of public opinion in the district.

Mme. BUGGE-WICKSELL asked whether Major Herbst thought that public opinion was right.

Major HERBST thought that the Administration was right. It had allowed Christian to remain and after a certain time would have been in a position to see whether he could be trusted.

Sir F. LUGARD asked whether it was the case that these men, Morris and Christian, had fought for the Allies during the war.

Major HERBST said that Morris had fought, but he was not sure of Christian. The natives had undoubtedly expected that their country would be restored to them, and the Germans driven out after the war.

Mme. BUGGE-WICKSELL asked whether it would not have been better to have negotiated with them immediately and to have made their position clear.

Major HERBST said that the natives soon realised that the Europeans were going to remain in the country.

Mme. BUGGE-WICKSELL asked whether they realised that the Europeans were of a friendly disposition, and desired to make conditions as easy as possible for them ?

Major HERBST replied in the affirmative. But a section which had such rights, namely the Bastards, did not wish to surrender rights which they had acquired from the German Government. Others welcomed the removal of German laws. They soon realised that conditions would remain practically the same, and that they would not have their land restored.

Mme. BUGGE-WICKSELL asked whether the native reserve was sufficient.

Major HERBST said that there had been no complaint. The Bondelzwarts reserve was quite sufficient. They had the best land in that part of the country, but they certainly had asked for all the land recently occupied.

Question 1 : (*d*) *"Sound system of native education (grants to mission schools, supervision by Government, native advisory boards)."*

Major HERBST said that this question had been dealt with in the report for 1922. It was recognised that the position was deplorable with regard to native education. The missionaries were handicapped.

The CHAIRMAN pointed out that the Commission of Enquiry had suggested that it was necessary to develop the native advisory boards. Had the natives expressed any desire for such a development ?

Major HERBST said that the whole ambition of a native was to own stock. He wished for little more.

Question 1: (*f*) *"All officials, including police, concerned in the unfortunate affair to be transferred."*

M. ORTS asked whether, with a view to appeasement, and without implying the censure of the officials concerned, it would not be advisable to transfer these officials elsewhere ?

Major HERBST said that it would be difficult now that the report of the Commission of Enquiry had been made public. It was necessary to let sleeping dogs lie for a time. If the suggestion had been made confidentially, it might have been possible to carry it out.

M. ORTS enquired whether this consideration was a sufficient reason for disregarding a suggestion which everybody appeared to consider desirable.

Major HERBST asked what would be the position if an officer were to decline to be transferred and were to demand an enquiry.

Question 1 : (*g*) *Abolition of credit system of trade and of barter system. Traders to pay in cash.*

Major HERBST said that the natives would suffer if credit were restricted, as they would be unable to buy foodstuffs.

Personally, he thought that, if practicable, the credit system should be abolished. The Germans in German South-West Africa had a law which said that any European giving credit to a native could not enforce his claim in a court of law unless the transaction had been approved by a magistrate. This law, however, was a dead letter.

The CHAIRMAN did not quite understand the conditions prevailing. At one moment it seemed that the natives had reached some degree of civilisation ; at other times they seemed to be wholly barbarous. They found on the one hand that there was a tax on dogs, and on the other that there was no Customs or sanitary frontier. The Commission was informed that cattle owners must pay a fine if their cattle were not vaccinated or branded, a regulation which seemed to show that the organisation of the country was fairly complete. They were now dealing with the question of credit and of advances, which was difficult to understand if the people in question were in a primitive stage.

Major HERBST said that the natives merely went before the magistrate, and the transaction was noted in the magistrate's office.

Mr. GRIMSHAW asked whether the credit trouble was due to the fact that the labourers were paid their wages only at the end of long terms.

Major HERBST said that the natives were paid monthly.

Mr. GRIMSHAW did not think that in that case there would be any need for credit advances

Major HERBST said that the needs of a native working for a farmer were provided for on the farm. Credit was necessary for a large number of natives living on the reserves, who needed groceries and clothing. They received credit on stock which was not yet sold, and had usually to pay a very high price in consideration of the credit. There were cases in which natives paid twice as much as the white man. It was impossible to stop this practice by law, because the native, when he needed a thing, went to the shop and was able to obtain it at a moment when he could not pay for it. It would be a tremendous interference with the ordinary commercial life of the country to suppress the system.

Sir F. LUGARD asked whether the German law was still in force.

Major HERBST said that it was still in force, but was never observed.

Sir F. LUGARD asked whether the taxes of the natives were demanded in cash.

Major HERBST said that the only tax imposed was the dog tax, which they were required to pay in cash.

Sir F. LUGARD asked how they could pay in cash if they themselves were only paid in kind.

Major HERBST said that in many cases the master paid the dog tax to the magistrate on behalf of the native. The only trouble with regard to the dog tax had been with the Bondelzwarts. In other districts there had been no trouble whatever. He knew of a number of cases where the master went to the magistrate and paid the dog tax in order to get his people to remain on the farm. There was a dearth of labour throughout the country.

Sir F. LUGARD asked whether this system did not tend to get employees into the debt of the master, so that they could not get away.

Major HERBST said that a man might leave his service, even though he owed the master money, if his contract had expired, and unless he had made a new contract which provided for an extended term to cover the loan. The servant might go, and only a civil action would result.

Sir F. LUGARD asked whether the native realised that he was free to go if he was in debt.

Major HERBST was not sure that the native knew this, but he could obtain information at the magistracy or from the Native Affairs Officer. He had drawn attention to the German law in the memorandum which he had prepared for the guidance of the officers of the Administration. He would draw attention to the following passage:

> "By enactment of October 30th, 1908, natives may not be given credit in any business transactions without written consent of the magistrate, which consent may

only be granted in exceptional cases. Without such consent, credit transactions are not binding on the native and the article sold on credit cannot be recovered."

He would point out that payments in kind had been somewhat modified by the subsequent Masters and Servants Law of Cape Colony, which had since been brought into operation.

Sir F. LUGARD enquired whether Major Manning had been examined by the Commission of Enquiry. He found two references to Major Manning in the report of the Commission, but these were references to his report and not to his evidence. Major Manning had made a series of recommendations, but there was nothing in the report of the Commission of Enquiry to show whether these recommendations were practicable, or whether any of them had been adopted.

Major HERBST stated that Major Manning had given evidence before the Commission of Enquiry.

Recommendations of the Assembly.

The CHAIRMAN said that the Commission would now make an enquiry regarding the questions on which the Assembly desired to be informed.

Question 2 : (a) "What measures have been taken to relieve the sufferings of the victims, particularly of the women and children ?"

Major HERBST said that the women and children had been fed from stock captured from the natives, until that stock was returned. Ordinarily the magistrates had authority to give relief to any person in distress, whether black or white. The magistrate for Warmbad could issue food at Government expense to any needy person. Soon after the operations were concluded, the bulk of the people were allowed to return to their reserves, and afterwards the stock which remained was returned to them.

The CHAIRMAN enquired what was done for the permanently disabled.

Major HERBST said that there were a number of cases in the hospitals and they were kept there until discharged by the doctor.

M. BEAU asked whether fighting had taken place within the reserve.

Major HERBST said that the first two fights took place in the reserve. The natives went first of all into lager at the Chief's place and from there came to Driehoek and fired on the patrol advancing to that place.

M. BEAU asked whether subsequently they took refuge in other parts of the territory.

Major HERBST said that Morris and Christian, with a certain number of natives, left the reserve on the day of the fight at Guruchas, and Morris also left it to attack Warmbad.

M. BEAU asked whether the troops had followed the natives into the reserve and whether the troops had remained there.

Major HERBST replied that the troops remained to occupy the water-holes during the hostilities. A good many of the natives had been collected in the reserve.

M. BEAU asked whether the natives came to the water-holes in order to receive supplies.

Major HERBST stated that supplies were conveyed by means of motor lorries.

The CHAIRMAN drew attention to the high proportion of killed in comparison with wounded. Moreover, it had been said that the prisoners were ill-treated. The Commission would like to know whether, when the repressive measures were completed, immediate measures for relief had been taken, or whether there had been punishments after the hostilities had ceased.

Major HERBST said that the only means of finding out the number of wounded was examination of the battle-ground after it had been captured. The women and children to whom reference had been made were found at Guruchas, where the first aeroplanes were used. There also a few wounded men had been found. The most serious cases were sent to Keetmanshoop hospital and Windhoek. In the subsequent fight there were 50 natives killed, and the same course was followed. The hills were searched, but no wounded were discovered. The Hottentots invariably carried away their wounded.

The CHAIRMAN enquired how many prisoners, particularly women and children, were retained, and how long afterwards they had been sent back to their villages.

Major HERBST stated that the women were not prisoners. They were left at Driehoek on a part of the reserve. The men had been kept in camp for about a fortnight until they had been sorted out.

The CHAIRMAN asked how many leaders had been taken away and imprisoned.

Major HERBST said that four leaders had been removed. One of these, Jacobus Christian, had been tried and sentenced to five years' imprisonment. He did not know what had happened to the other three as a result of the trial.

The CHAIRMAN did not see what the reply was to the question raised by the Assembly as to the assistance given or the measures taken to relieve the sufferings of the victims. Up to the present the only reply on this subject was to the effect that there existed an organisation which gave relief to those who had no means of subsistence and who were without work. Had no special measures been taken ? Had there been no distribution in money or in kind ?

Major HERBST said that, while the people were concentrated in bulk by the action of the Government, the authorities were responsible for maintaining them and did maintain them.

The CHAIRMAN asked what had happened, for example, to the widows whose husbands had been killed. Had they received an indemnity in stock or in foodstuffs ?

Major HERBST said that these people were fed up to the time when they were dismissed to their homes. Then the authorities distributed a certain special number of stock to the people who had lost their means of support. Major Manning had himself supervised the distribution.

Sir F. LUGARD pointed out that the stock in question was their own stock.

Mr. GRIMSHAW asked whether Major Herbst thought that the relief which he had described was all that was necessary once the natives were back in their reserves.

Major HERBST thought that it was sufficient to meet their needs, seeing that the men would return to service. There was no special relief. It was not requested. The authorities had received a letter from a society in the Union asking whether there was any need to assist the Bondelzwarts. This society was prepared to send articles of clothing or any other assistance. It had been informed that the Administration would give free transport for any articles of clothing, but that the authorities took the responsibility for feeding the people, who could always apply to the magistrates for rations if needed. The society was informed that it might send clothing for distribution through the magistrates. He had personally instructed Major Manning to see that the families which had lost their breadwinner should secure a sufficient number of stock to maintain them.

The CHAIRMAN enquired as to the tribal position of the widows and orphans. He assumed that the widow did not remain unsupported but was looked after by the tribe.

Major HERBST said that the conditions of life were communal.

Question 2 : (b) "What proportion of livestock was returned to the Bondelzwarts ?"

Major HERBST said that, unfortunately, a large number of cattle died of drought during the military operations and after. Only about half the cattle remained over, and were returned. The cattle had stampeded across the face of the country during the disturbances. None of the cattle was confiscated by the authorities.

Sir F. LUGARD asked whether there was any census taken of the Bondelzwarts tribe before and after the operations.

Major HERBST said that there were only the census figures for 1921. This census was not specifically taken for the Bondelzwarts, who were classified with others as mixed.

The CHAIRMAN asked whether it could be stated generally that the population was increasing or was it stationary ?

Major HERBST said that the tendency of all broken native tribes was to remain stationary, except where they were able to obtain food from agriculture.

Question 2 : (c) "What general measures have been taken tending towards the restoration of the economic life of the tribe ?"

Major HERBST said that nothing special had been done. The men were merely encouraged to go out to work.

Question 3 : "What judicial action has been taken by the mandatory Power in respect of the four persons named as reserved for trial in the Administrator's report ?"

The CHAIRMAN reminded the Commission that one of these persons had been condemned to five years' hard labour.

Major HERBST said that he had only the newspaper reports. Possibly the Administrator, after being satisfied as to the needs of justice, had released the other three men without trial. The view of the Administrator was that, once the law had been vindicated, he should endeavour to show clemency.

Sir F. LUGARD wished to enquire as to the position of Timothy Beukes, who was apparently the official head of the tribe.

Major HERBST said that at the time of the rebellion he was the Government headman of the tribe.

Sir F. LUGARD said that it was stated that he had taken part in the fight. Had he not since been given an appointment in the police force ? How was it that Jacobus Christian got five years, penal servitude and Beukes, who was with Christian the whole time, was set free ?

Major HERBST stated that Beukes became King's evidence and gave valuable information as to the preparations that had been made for this campaign, which was used against Christian.

Sir F. LUGARD enquired whether Jacobus Christian could have left his tribe to come to the Administrator.

Major HERBST said that it was very difficult for a native chief to act against the advice of his councillors and people.

Sir F. LUGARD said that, if Jacobus Christian could not come to the Administrator, there would seem to be a strong case for clemency.

Major HERBST said that the authorities were not at that time aware that Christian was not allowed to come to the Administrator. He did not say so in his letter.

Sir F. LUGARD asked what day was the last message sent to Christian asking him to come.

Major HERBST said that it was the day before the natives drove the Superintendent from Driehoek.

Sir F. LUGARD pointed out that then it was too late.

Major HERBST said that messages had previously gone and it was admitted that the messages were received by Christian.

Sir F. LUGARD said that, having got the message, it was not possible for Christian to leave his tribe.

Major HERBST said that, if it was merely a question whether this was ground for exercising clemency, he felt sure that it was. Pressure had been brought to bear on the Administrator to allow Christian to go without further punishment, but the Administrator felt that the law must be vindicated by a public trial. He would point out that the Commission of Enquiry had apparently considered that the Administrator had acted weakly in allowing Christian to remain in the country on a previous occasion, and the Commission appeared to condone the action of Morris because Morris was encouraged by the fact that nothing had happened to Christian on a previous occasion. On the previous occasion, Christian had been tried and a suspended sentence was passed. He suffered no pecuniary loss, however, and was allowed to remain. There had subsequently been other punishments of native men of three or four months' imprisonment. There was accordingly no precedent upon which Morris could base a supposition that he would be allowed to escape the law. The clemency exercised in the case of Christian was now criticised as weakness on the part of the Administration.

Sir F. LUGARD pointed out that the Administration had not only let off Beukes, but had given him a post in the Administration.

Major HERBST replied that, under the law, persons turning King's evidence were not liable to punishment Beukes had received his post later. He had come to the Administrator, saying that he was boycotted by the tribe and that his life was in danger. He was, moreover, destitute and asked the Administrator to do something for him. He had been given a vacancy in the gaol at Keetmanshoop as a native warder.

The CHAIRMAN wished to ask one question : Were the Bondelzwarts Roman Catholics?

Major HERBST replied that in Warmbad they were Roman Catholics and Protestants and that there was a Roman Catholic mission in the reserve.

The CHAIRMAN asked whether there was a priest in the reserve and whether the clergy had intervened during the disturbances ?

Major HERBST said that the natives would not allow their missionaries to interfere with their political affairs and that the missionaries did not attempt to exercise any influence over the political actions of the tribe.

Question 4: (a) "Have any steps now been taken to define the general lines of a policy with respect to the natives in their relations with the small farmers" (paragraphs 14 and 15).

The CHAIRMAN explained that the Commission did not expect a long statement on general policy, but only wished to know whether steps had been taken by the Administration after the rebellion to modify or amend the native policy.

Major HERBST said that this was a wide question. The policy differed in different parts of the country. There was no interference with native affairs in Ovamboland. So long as the native chief conducted himself well, there was no interference with his internal administration of the tribe.

With regard to the broken tribes, there was really no such thing as a native policy pure and simple. The natives were regarded as units of the general population, with the same rights and privileges as the white population. There was no such thing as a separate policy. The courts were open to the natives in the same way as to the white men, and European law was applied to them. No change had been made as a result of the rebellion. The natives were part and parcel of the general population, and were under European law. All that could be done was to secure fair treatment and justice for the native in his relations with the white men.

Question 4: (b) "Whether the Administration intends to devote a larger part of its revenue to the welfare of the native population?"

Major HERBST stated that the education vote had been slightly increased, but this increase was automatic. More funds would be provided as the needs arose.

Question 4: (c) "Whether it is the intention of the Union Government in future more directly to circumscribe the action of the Administrator in such matters?"

The CHAIRMAN said that this question should more properly be addressed to Sir Edgar Walton.

Sir E. WALTON said that the Administrator would always consult and take instructions from the Union Government, except in cases of emergency. In this case his action had been justified by the emergency.

The CHAIRMAN stated that this concluded the examination, and thanked Sir E. Walton and Major Herbst for the assistance which they had given in the work of the Commission.

He informed the Commission that Sir Edgar Walton and Major Herbst were remaining at Geneva, so that if any members of the Commission desired to put any questions, they might always be asked to attend the Commission.

Sir E. WALTON asked whether it would be possible to conclude his services to the Commission at an early date, as there were urgent reasons why he ought to return immediately to London.

The CHAIRMAN said that the Commission could hardly give a definite answer to this request. There would probably be a plenary meeting quite shortly, but it was not yet certain.

Sir E. WALTON said that his Government would certainly expect him to be present at the plenary meeting, and that he would, therefore, hold himself at the disposal of the Commission.

Major HERBST said that he had prepared a memorandum setting forth his evidence before the Commission.

It was agreed that this should be attached to the minutes for distribution to the Members of the League.

Sir E. Walton and Major Herbst then withdrew.

179. ENQUIRY REGARDING THE BONDELZWARTS REBELLION OF 1922: DISCUSSION ON THE REPORT OF THE COMMISSION TO THE COUNCIL.

The CHAIRMAN informed the Commission that, in collaboration with M. Orts, he had prepared a rough draft of the conclusions to be presented to the Council. This text was merely a skeleton

and intended to serve as a kind of framework for the final text. It was not meant in any way to restrict a free expression of opinion by the members of the Commission. The Commission had now merely to agree as to the general lines. He would begin by reading point by point the preamble to the conclusions:

Paragraph 1. — "The Permanent Mandates Commission has not received any statement from the mandatory Power regarding the Bondelzwarts incident, as the Report of the Commission of Enquiry appointed by the mandatory Power has been transmitted by the latter to the League of Nations without comment."

No observations.

Paragraph 2. — "It is true that the exchange of views which took place with Sir Edgar Walton showed, at all events, that the mandatory Government does not endorse the conclusions of the Commission of Enquiry's Report. Sir E. Walton said that he was not authorised to state the opinion of his Government as to the incident, and as to how far the responsibility should be borne by the Administrator of the mandated territory. On these two points he merely referred the Mandates Commission to a statement made by the Prime Minister of the Union of South Africa in the Union Parliament during the annual budget debate."

No observations.

Paragraph 3. — "The South African Delegation to the Assembly had stated that an impartial enquiry was to be instituted into the incident. This announcement seemed to imply that the Report of the Commission of Enquiry would be transmitted to the League of Nations. As has already been observed, the Permanent Mandates Commission has actually received the Report of the Commission, but it appears from the statements made by Major Herbst that the Report contains many errors, that it is the work of persons who are ignorant of local conditions, and that its conclusions are not accepted by the mandatory Power.

"Accordingly, the Permanent Mandates Commission has not yet been able to obtain enlightenment from any document which reflects the views of the mandatory Power. One essential source of information has, consequently, not been available."

No observations.

Paragraph 4. — "The Permanent Mandates Commission is not qualified to make, on its own account, a thorough investigation of the facts. The mandatory Government alone is in a position to carry out an enquiry, because it is in a position to hear the evidence of both parties, namely, the officials concerned in the affair and the Bondelzwarts natives.

"In order fully to accomplish its work, the Permanent Mandates Commission should have received notice of the conclusions reached by the mandatory Government and of the measures taken by it to restore the calmness of public opinion and to alleviate the consequences of the repression. The Commission would then have been in a position to judge of the justice of the conclusions and the efficacy of the measures in question, in the light of the information obtained from an enquiry guaranteed by the mandatory Power to be genuine and impartial."

No observations.

Paragraph 5. — "Nevertheless, the Permanent Mandates Commission thought it desirable to hear the representative of the accused Administration, Major Herbst, who was specially instructed by the Prime Minister of the Union to furnish the Commission with any explanations it might desire. The Commission therefore heard Major Herbst and put to him a number of questions, thereby learning the version of the events in question which was given by the Administrator of the mandated territory. It should again be emphasised that the Commission was not able to institute an enquiry in which both sides could be heard, as such an enquiry would have to be held on the spot."

The CHAIRMAN emphasised the desirability of indicating once more in this paragraph that the Mandates Commission had only heard one version of the incidents.

The last words of the paragraph "as such an enquiry would have to be held on the spot" were added at the request of M. Beau. Without this addition, it would not be understood that the reason why the Mandates Commission had not been able to make an enquiry was the material impossibility of doing so.

Paragraph 6. — "Under these circumstances, the Permanent Mandates Commission is bound to offer its conclusions, or rather impressions, with all reserve as to their justice. These conclusions, which are given below, are based on the assumption that the explanation given by the representative of the Administration of the mandated territory has not been, and will not be disputed."

No observations.

Conclusions. — The Chairman stated that the text of the "Conclusions of the Commission" was entirely provisional. The present text only outlined the points which it was considered might be developed. The Commission would decide whether or not it was necessary to make additions.

"A. — The real gravity of the incident should be established. There was no mass insurrection. Very few of the men were armed. The military force mobilised was not large. The

rebellion was suppressed in a week. Though a large number of men were killed, only seven women were wounded.

"B. — The fundamental causes of the movement are various and remote.

"C.— The rising could probably have been prevented by timely personal action on the part of the Administrator. No such action was taken. This is regrettable.

"D.— The repression appears to have been carried out with excessive severity, and, had it been preceded by a demonstration of the overwhelming force at the command of the military authority, an immediate and perhaps bloodless surrender might have been anticipated."

M. d'ANDRADE observed that the question was a very delicate one and required much care. The attention not only of Europe but of South Africa was centred on the decision of the Commission. It was necessary to consider the question from the European standpoint, but also from that of South Africa which, as a result of the situation of these countries, differed from that which existed in Europe. Each country consisted of a large mass of individuals of the same race, public services organised in such a way that each individual could count on the protection of the League of Nations of which he formed part. In the vast African territories there was a very small white population submerged in the midst of a large black population which considered that the former had deprived it of its ancient rights and of its lands. Hence the different points of view. He would not venture to explain why the draft report which had just been read stated several times that the Commission had not made an enquiry, and now submitted conclusions which were definitely unfavourable to the only party which had been heard. He wondered what would have been the result if the Bondelzwarts or their representatives had been heard by the Commission.

The question was not at all clear and it seemed to him that perhaps it would be advisable, in dealing with such a serious matter, for each member of the Mandates Commission to send to the Chairman a kind of memorandum explaining his own view on the matter. With the assistance of these reports, M. Rappard would be able to draft a definite text. It was understood that all the memoranda would be confidential and that no member of the Commission would have the right to publish his memorandum. He added that it seemed to him necessary to consider the question from the South African point of view, for the conception of the question seemed to be much exaggerated and not at all in accordance with the facts. The repressive measures had been severe, but one fact, he thought, stood out before all the others. The Bondelzwarts had, according to information given by Major Herbst, gone into lager, had been the first to carry out raids and had fired on the Government troops. In view of the danger of the rebellion spreading, the Administration was obliged to take prompt and effective action; it was impossible to tell at the outset where such things would end.

Nevertheless, other facts should be taken into consideration. There existed in South Africa an anti-European movement which was of considerable importance ; the remark had often been heard that Africa was for the Africans and the Europeans should be thrown into the sea. It was not likely, therefore, that the natives, supposing that they had grievances, justified or not, would have the sympathy of Europe for attempting these acts of rebellion instead of endeavouring to use legal methods in order to obtain justice.

It was necessary to remember that the decisions of the Commission would be made public and that these decisions ought to be absolutely just, taking into consideration the circumstances of the case and the necessity for preserving untouched the prestige of the Commission.

M. RAPPARD thanked M. d'Andrade for the confidence which he had expressed in him. It was precisely because he was equally convinced of the importance of this affair for the Mandates Commission that he insisted upon the role of the Secretariat being limited to doing the necessary material work. He could not assume an initiative as serious as would be involved in framing the conclusions of the Commission. It would be extremely unfortunate for the institution of the mandates, for the League of Nations as a whole, and even for the existence of the Secretariat, if it were imagined in South Africa or elsewhere that the conclusions of the Commission, appointed for the qualifications and competence of its members, were in any way influenced by the Secretariat. He therefore suggested that the procedure proposed by M. d'Andrade should be completed in the following manner: The members of the Commission might draft their observations and forward them to the Chairman. The Commission would open a discussion on the basis of these written observations. The Commission might then, having endorsed the observations presented by this or that member, entrust the Secretariat with the task of editing the final text.

M. ORTS agreed with M. d'Andrade on many points. For this reason he thought that it was necessary, in the first paragraph of the Conclusions, to reduce the Bondelzwarts affair to its just proportions. He admitted also that the natives had, by their attitude, defied the authorities. The views contained in paragraphs C and D had been formed as a result of the explanations furnished by the only party which had been heard by the Commission, namely by Major Herbst.

The CHAIRMAN, in conclusion, asked the Commission whether it approved in principle the text of the preamble.

The Commission approved the text in principle.

The CHAIRMAN, having consulted the Commission on the Conclusions, noted that it was unanimously decided to adopt the procedure suggested by M. Rappard and based on the proposal of M. d'Andrade. Each member would draft conclusions in accordance with his feeling and views on the matter. The texts would be handed in to the Chairman and the discussion would then take place. A discussion was necessary, as it was for the full Commission to assume responsibility either by putting forward its views in a text unanimously adopted, or by presenting a majority and minority report.

TWENTIETH MEETING (Private)

held at Geneva on Wednesday, August 1st, 1923, at 3.30 p.m.

Present: All the members of the Commission, except the Count de Ballobar.

180. Discussion on the Question of the Frontier of Ruanda, in the presence of Mr. Ormsby-Gore.

Mr. Ormsby-Gore, accredited representative of the British Government, came to the table.

The Chairman welcomed Mr. Ormsby-Gore and paid a tribute to the work which he had done as a member of the Commission.

Mr. Ormsby-Gore thanked the Chairman. He had left the Mandates Commission with regret. As member and representative of the British Government, he had continued to take the same interest in the general development of the Mandates question as he had felt when one of the members of the Commission.

He wished to make a statement on the question of the frontier of Ruanda, and to inform the Commission of the result of the negotiations which had taken place during last year between the British and Belgian Governments.

The British Foreign Office had agreed that he should make this statement to the Commission, and he would read to the Commission a communication, the terms of which he had agreed with the British Foreign Office. The British Government took the view that the right body to make any publication of such communication of the agreement which had been reached between the two Governments was the Council of the League, and not the Mandates Commission. A joint letter had been sent from the British and Belgian Governments to Sir Eric Drummond, as secretary of the Council. The Governments took the view that it would be improper for the Commission to publish the results of the agreement, as it would necessitate an amendment of the mandate by the Council, since the frontier was defined in the mandate. It was accordingly for the Council to adopt, reject, or amend the proposal of the British and Belgian Governments, and the matter was not concluded until the Council had considered the agreement. The Commission might mention in its report to the Council that it understood that an agreement had been concluded between the two Governments, which were referring it to the Council for the necessary action.

Mr. Ormsby-Gore then read a statement to the Commission (Annex 12).

The Chairman expressed satisfaction that an agreement had been concluded. The Commission might be congratulated on this result, since it had first called attention to the matter.

181. Examination of the Report on the Administration of Tanganyika, in the presence of Mr. Ormsby-Gore.

General Administration.

M. van Rees asked if it would be possible next year to have a map of the territory, a text of the various decrees and ordinances referred to in the report, and a more detailed description of the general lines of the administration, *i.e.*, the divisions of the territory, the powers of the Governor and of the Council that assisted him, the participation, if any, of the natives in the public services and in the general conduct of affairs.

These remarks applied equally to the report on British Togoland and the Cameroons.

Mr. ORMSBY-GORE stated that he would convey this request to the Governor of the territory. The object of the Governor in his report was not to let it overlap with the previous report. The previous report had contained a map and some information on the general administrative organisation. The present report was in the form in which it had been received from the Governor, and was written largely on the basis of the questionnaire, its object being to answer in general form the main points raised in the questionnaire. If the Governors, in preparing their reports, were limited to the questionnaire, they would probably leave gaps on certain subjects, and would probably repeat the same matter from year to year. It would be of assistance if the Commission would indicate what special subjects it would wish to have treated in full in next year's report. It was desirable for the Commission to be able to form a general idea of the administration. This might be obtained from the budget and from particulars as to the staff employed in the various departments.

M. van REES stated that it was not his intention to ask for a repetition each year of a general description of the Administration. Last year he had been asked to make a comparative study of the administrative organisation of the mandated territories. He had been unable to do so for lack of the necessary details. A general description of the kind required was only to be found in the two French reports.

Mr. ORMSBY-GORE said that if M. van Rees had communicated with him, he could have provided the necessary information. He suggested generally that, if members were detailed by the Commission to report on any particular matter, they might communicate with the Governments of the mandatory Powers, who would prepare such information as they might require.

M. van REES, referring to paragraph 7 of the report, stated that the Commission would like to have more details in regard to the native tribunals. It was not possible to form any clear idea of their organisation and powers.

Mr. ORMSBY-GORE stated that he would draw the attention of the Governor to this point, and would send information on the powers and general organisation of the native tribunals. He believed they varied according to whether or not the tribes were organised under recognised chiefs or sultans.

Generally speaking, he thought it would be more valuable for the Commission to have reports from the governor on what was actually being done in the territory than a mere recital of decrees, etc.

Sir F. LUGARD asked what was the position of the Indians in Tanganyika territory. Had they any special complaints such as had been advanced by the Indians in Kenya ? Were they all British subjects, or did some of them come from the Indian Protected States ?

Mr. ORMSBY-GORE stated that the figures were given in paragraph 12 of the report. In next year's report the numbers of the British Indians and of the subjects of native States would, if possible, be shown separately. There had been certain difficulties with the Indians in Tanganyika over the tax on profits. These difficulties would be described in next year's report. There had been a strike of Indian shopkeepers and an agitation on the part of the East-African Indian Association. A delegation had come to London on the subject. Modifications had been made, and now the position was smooth. There was no reason to suppose that anything like the political issue raised in the neighbouring colony would be extended to Tanganyika.

Sir F. LUGARD enquired whether German laws had been completely annulled in the territory.

Mr. ORMSBY-GORE thought so. All the existing laws and taxes had at first been continued, but they were gradually being changed. The profits tax, for example, was the substitution of a new form of the tax for the tax which had existed under German law. This also applied to the hut and poll tax and to the municipal house tax, which followed the lines of the German laws, with modifications.

Sir F. LUGARD pointed out that in English colonies the fundamental law was English law modified by local ordinances. Was the law in Tanganyika English law ?

Mr. ORMSBY-GORE said that the fundamental law was the Indian Penal Code, which superseded all previous criminal law. This change had been made by ordinance in 1921. There had also been, in 1923, a land ordinance which superseded all previous land laws. Each subject was being dealt with *seriatim*. There had been no universal legislation repealing all German legislation.

Sir F. LUGARD asked whether it would not be well to issue a general proclamation introducing British common law as the fundamental law.

Mr. ORMSBY-GORE said that he would enquire into the matter and was under the impression that in civil cases English common law was already the only recognised law.

M. ORTS asked whether there was any tendency for Asiatic immigrants to settle permanently in the country.

Mr. ORMSBY-GORE said that immigrants tended to settle in the country, especially those who had established businesses and persons taking government service as clerks.

M. ORTS pointed out that Indians kept their status as British subjects. Was it not possible that difficulties might arise owing to the fact that the indigenous population of the mandated territory was living side by side with increasing numbers of immigrants who kept their personal status ? It had been said that Tanganyika territory would become a sort of colony for British India.

Mr. ORMSBY-GORE said that, if any migration took place on a large scale, it would be the primary duty of the mandatory Power to safeguard the interests of the African population. This would only be done, however, if there was immigration on a large scale. It was realised that any immigration law would have to be equally applied to all nationals of any Member of the League of Nations. The British Government quite realised that in Kenya and Uganda, just as in Tanganyika, its primary duty was to safeguard the African natives.

Slavery.

Mr. GRIMSHAW asked whether the legislation referred to in paragraph 16 was available.

Mr. ORMSBY-GORE said that the text of the slavery law was communicated to the League in September 1922.

A new ordinance was about to be passed, called the Masters and Servants Ordinance, on which there had been correspondence between the local Government and the British Colonial Office. There had been considerable difficulties, more particularly on the question of contract labour and the shortage of officials and magistrates to deal with cases. A copy of the law would be sent to the Commission as soon as possible.

Sir F. LUGARD noted that the status of slavery apparently remained, since it was stated in paragraph 16 that slaves could stay with their old masters as free men if they so desired.

Mr. ORMSBY-GORE said that the conditions defining the relations between employers and employed were dealt with in the new Masters and Servants Ordinance.

Recruiting of Labour.

Mr. GRIMSHAW noted that recruiting had been discontinued for work in the Highlands as the climate was unsuitable. Were any natives now being recruited for employment in this region ?

Mr. ORMSBY-GORE replied in the negative.

Mr. GRIMSHAW noted that natives proceeded for the clove-picking season to Zanzibar and Pemba, and that they also crossed over to Kenya in search of employment. Were there any difficulties with regard to health ?

Mr. ORMSBY-GORE did not think so. Clove-picking was a seasonal industry analagous to hop-picking in Kent.

Mr. GRIMSHAW asked whether this seasonal labour was recruited voluntarily.

Mr. ORMSBY-GORE said that the question of labour in the clove-fields had been considered from time to time. He knew of no pressure being used to recruit such labour, which had been customary for many years.

Sir F. LUGARD noted that paragraph 19 referred to direct recruiting by estate owners.

Mr. ORMSBY-GORE stated that there had been trouble under the German regime owing to direct recruiting by estate owners. The Masters and Servants Ordinance would deal particularly with that question. There was a certain amount of labour which went voluntarily in search of work, but this did not suffice for the needs of the plantations.

Mr. GRIMSHAW pointed out that, in paragraph 21, there was a reference to child labour. Was it intended to prohibit child labour ?

Mr. ORMSBY-GORE stated that he was informed that child labour was in process of disappearing. It was used both for coffee-picking and cotton picking. There was no recruiting of child labour, but he would enquire whether there were any actual prohibitions.

Arms Traffic.

Sir F. LUGARD pointed out that it would be useful for the Commission to know the number of arms in the possession of the natives.

Mr. ORMSBY-GORE stated that he would note this question, but that it might be difficult to obtain anything more than approximate figures.

Trade in and Manufacture of Alcohol.

Sir F. LUGARD observed that there was not much import of trade spirits into East Africa, but he would like to know what steps were being taken to control the consumption of native liquor.

Mr. ORMSBY-GORE stated that he would have something to say when the report on Togoland and the Cameroons came to be examined. He had no further information on the subject of conditions in Tanganyika than was contained in the report.

Liberty of Conscience.

The CHAIRMAN asked whether Mr. Ormsby-Gore had any observations to make on the subject.

Mr. ORMSBY-GORE said that during the last few months the British Government had received despatches concerning the competition and friction between various missionary bodies in Tanganyika. The subject was alluded to in paragraph 25 of the report.

The Governor had asked whether the British Secretary of State for the Colonies would allow him to take measures similar to those adopted some years ago in Kenya, where the various missionary bodies had been allotted definite spheres of influence. This delimitation had been effected in Kenya with the mutual assent of the missionaries. It would be extremely difficult to get mutual assent in Tanganyika. A further question arose in regard to the return of the German missionaries to the territory. The question at issue was whether the proposal to delimit spheres of influence could be carried out, and whether it would be possible to exclude ex-enemy missionaries.

The rivalry between the various sects had a very bad effect on the natives. There were three groups, belonging: (1) to the Roman Catholic Church, (2) to the Church of England, and (3) to the other Protestant Churches.

M. ORTS pointed out that the question of the ex-enemy missionaries was of secondary importance. The question of delimitation was extremely difficult, and was likely to arouse protests from all the missions. The missionaries would not be able to support an agreement which, according to them, would result in abandoning for ever to error the natives living in a particular region.

Sir F. LUGARD agreed that this was a serious question. Perhaps it might best be dealt with under education. The duty of the Commission was to safeguard the interests of the natives, and it was clear that the natives were not profiting by the rivalry of the missionaries. The Government might perhaps forbid the opening of private schools without authorisation. If the competition between the missions was likely to become injurious to the natives, the Government could refuse permission to open rival schools in any place where adequate mission schools existed. It was undoubtedly the duty of the Commission to support the Government in finding a remedy.

Mr. ORMSBY-GORE said that a suggestion had been made by one of the officials of the British Colonial Office that a law should be passed under which it would be possible to enable the Governor to forbid a new mission station to be established within a certain radius of one already existing.

M. d'ANDRADE said that the liberty of missionaries was safeguarded under the Berlin agreement. Was the rivalry between the missions entirely harmful ? Possible competition might tend to render them more efficient. The Governor might possibly take measures to provide against congestion. In some colonies it was provided that there should be a certain distance between missions, but all missions were nevertheless regarded as free and equal.

M. RAPPARD read to the Commission Article 8 of the Tanganyika mandate on liberty of conscience.

The question of the admission of Germans would only arise when Germany became a Member of the League. The principle of delimitation might perhaps be admitted as being necessary for the maintenance of public order and good government. He doubted whether the question could be regarded merely as affecting the rights and interests of the natives. The Council of the League, on drafting Article 8 of the mandate, had in fact considered claims which had been put forward, particularly by the United States, with regard to the rights of other nations the missionaries of which were interested in the work.

Sir F. LUGARD said that in Tanganyika and Kenya the British Government had laid down the principle that the desires of the majority of the population should prevail. It might be made impossible for a mission to open a new school where a school already existed. In this way the question would be solved not as a religious question but as an educational question.

M. ORTS said that there were missionaries who did not open schools, but merely carried on the work of evangelisation. The measures recommended would have no effect, as far as they were concerned, unless missions of this kind did not exist in Tanganyika.

Sir F. LUGARD did not recollect having heard of any missions which did not open schools.

M. d'ANDRADE thought that the question was not of great importance, and felt sure that a modicum of tact on the part of the local Governor would result in agreement being reached in any quarrels between missionaries over their spheres of activity.

Mr. ORMSBY-GORE said that the question had been settled in a friendly manner in Kenya, but when the heads of the three groups of missionaries were approached, they would invariably quote the mandate.

M. ORTS and Sir F. LUGARD thought that the point of the maintenance of public order could be raised by the Governor in the event of necessity.

M. Orts developed the following line of argument:

Article 8 of the mandate made the free exercise of religion subordinate to the maintenance of public order.

The maintenance of order was the first duty of the Governor, and might be summed up as being the essential condition of all forms of freedom, including religious freedom.

This being the case, any justifiable regulation, *i.e.*, any regulation having the effect of maintaining order, when order was really in danger, would be above criticism, even if its effect was to curtail for a given time in a given locality, or even throughout the territory, though to a limited extent, the free exercise of religion.

On the other hand, any measure going beyond the limits imposed by the necessity of maintaining order, any needlessly vexatious regulation, would come up against the provisions of the mandate.

He thought that it would be very useful to tackle the problem directly on these lines, and not by the indirect method of a regulation regarding the opening of schools.

M. van REES said that what was, in effect, asked for was an interpretation of Article 8 of the mandate.

Mr. ORMSBY-GORE said that undoubtedly action would have to be taken at some future time. When it was taken, and when, as a result, appeals were received by the Mandates Commission, he hoped the Commission would recollect that his Government had already informed it of the difficulties which were being encountered in the particular territory.

M. BEAU thought that competition between missionaries did not result in much harm to the natives. On the contrary, they sometimes even benefited by it. The Governor could be left to interpret the spirit of the mandate in accordance with the terms of the Covenant.

In reply to Sir F. LUGARD, Mr. ORMSBY-GORE gave the following definition of recognised missionary societies:

"The term: (recognised missionary societies), is used to express societies which are recommended to His Majesty's Government, in the case of non-Catholic missions, by bodies in the United Kingdom and America which represent many different denominations of the non-Catholic faith, and in the case of Roman Catholics, by the Cardinal Archbishop of Westminster (with the consent of the Vatican). This system has been applied generally both in India and the British Colonies, to ensure that only missionary bodies of high standing are allowed, without further investigation, to undertake missionary work among the natives. At the same time, this does not involve the exclusion of other missionaries, and in all cases the provision of the mandate is borne in mind."

Military Clauses.

Mr. ORMSBY-GORE said that the number of troops employed in Tanganyika territory was well below the number employed by the Germans before the war (about 2,500), but a reduction was now in process of being carried out whereby the total combatant forces would be reduced to approximately 1,700. It had been the constant aim of the British Administration to reduce the local garrison to the lowest possible point consistent with safety. The immense area of the territory (365,000 sq. miles) and its incomplete internal communications would have to be borne in mind in this connection.

Economic Equality.

Mr. ORMSBY-GORE stated that the Customs duties for Tanganyika had recently been altered. New Customs arrangements between the Governments of Kenya, Uganda and the Tanganyika territory provided for the free admission of all local products from one territory to the others.

Sir F. LUGARD enquired the reasons for the losses on the railway.

Mr. ORMSBY-GORE explained that this was due partly to the world-wide slump in trade and partly to the heavy expenditure necessitated by repairs. The position of the railways was fully shown in the report for 1920.

Sir F. LUGARD enquired the meaning of the phrase "domestic exports".

Mr. ORMSBY-GORE stated that this referred to exports from the territory and not to exports or re-exports coming from the Belgian Congo and other adjacent countries.

Sir F. LUGARD asked the nature and conditions of the mangrove concessions and of the concession in the forest of Minzero, in the Bukoba district, given to the Government of Uganda, mentioned on page 25 of the report.

Mr. ORMSBY-GORE said that exclusive licences had been given for five years to two persons to cut mangrove bark over an area of 5,400 acres in the Rufiji delta. The licencees would pay the royalties fixed in the forest ordinance and also a minimum yearly sum of 12,000 shillings. The licence reserved power to the Government to permit local native inhabitants to cut mangrove bark to the same extent as had been customary in the past.

M. YANAGHITA asked whether it was in order to give a forest concession to a neighbouring Government. Did not this power infringe the principle of economic equality ?

Mr. ORMSBY-GORE did not think that it did. The forest in question was near the frontier, and the Uganda Government was the body most capable of exploiting it to advantage, since it required wood for public works, particularly for its railways.

Education.

Mme. BUGGE-WICKSELL referred to the remarks on education found on page 28 of the report. This showed that a programme new in the experience of the Commission was being carried out. She would be very grateful for the fullest possible information in next year's report.

Mr. ORMSBY-GORE said that very important changes had been taking place regarding education. Dr. Jesse Jones, a distinguished American, had lately made a tour of the colonies, protectorates and mandated territories in West Africa and had issued a most valuable and suggestive report. Mr. Ormsby-Gore had summoned a Conference in London some few weeks previously, which was attended by the Colonial Secretary, most Governors of the territories in question, Dr. Jesse Jones and Mr. Oldham, who was especially interested in Protestant mission schools, and by himself. This Conference had appointed a permanent Committee at the Colonial Office, under the chairmanship of Mr. Ormsby-Gore, to go into the whole matter of African education. The object of the Committee was to prevent former mistakes being repeated in this very important matter. At present, only a few Africans, who were of means, received an European education, which totally unfitted them for life in Africa. The Committee would endeavour to find out what was the best education to give the natives in all branches. A higher education school was about to be set up on the Gold Coast, which was the most advanced colony in this respect. Dr. Jesse Jones was about to make a tour through East Africa, including Tanganyika, and to write another report similar to his first report. The Committee thus newly established hoped to build up a very different system from that obtaining in former times. Hitherto missionaries did most of the work of education. The Governments of the mandated territories were only just beginning to interest themselves in this matter. The British Government was willing and ready to transmit the results of any experience it might obtain in this matter to any other Governments interested.

Mme. BUGGE-WICKSELL expressed herself very satisfied by the line taken by the mandatory Power in this question, and wished it every success.

M. BEAU enquired what language was used in the schools.

Mr. ORMSBY-GORE replied that Swahili was the lingua franca of the district.

In reply to Sir F. LUGARD, he said that the Dutch schools in the district were for European children. There was a considerable Dutch colony in the Arusha district.

Public Health.

M. RAPPARD read that part of the Count de Ballobar's report dealing with public health. (Annex 9).

Mr. ORMSBY-GORE said that £97,665 had been set aside in the budget for 1923 for medical and sanitary expenditure. There were twenty-one ordinary medical officers and provision had been made for native dispensaries.

Sir F. LUGARD enquired what steps had been taken to control the spread of syphilis and other venereal diseases.

Mr. ORMSBY-GORE said that all the Administrations in Equatorial Africa were deeply concerned with this problem. There was an universal spread of this disease throughout Africa. The prin-

cipal difficulty was to induce the natives to submit to treatment before it was too late. Even when they did, they not infrequently, the moment they felt themselves to be recovering, returned to their homes and thus undid all the good of the treatment. He had telegraphed to the Governor of the Gold Coast asking for full information regarding the serious spread of syphilis in Togoland. In Uganda, where the most far-reaching steps to combat the disease had been taken, native medical assistance had been trained to deal with it and were doing excellent work. It could not be concealed, however, that all these territories were threatened with a definite decline in population and a decrease in resistance to other diseases, owing to the ravages of syphilis.

The CHAIRMAN enquired if the population was stationary or diminishing.

Mr. ORMSBY-GORE replied that it was difficult to give any definite figures. One thing was certain, that unless syphilis was checked, a decrease was undoubtedly to be feared. He hoped that all organisations interested in public health throughout the world would wake up to the urgency of this problem.

Land Tenure.

M. van REES referred to page 26 of the report, in which mention was made of the new ordinance published in 1922 on land tenure, the second clause of which stated that "the whole of the lands of the territory, whether occupied or unoccupied on the date of the commencement of this ordinance, are hereby declared to be public lands". He enquired what was the exact meaning of the phrase "public land".

This was not Crown land, as this expression had been deliberately left out of the wording of the ordinance.

Mr. ORMSBY-GORE replied that the community of Tanganyika was the owner of the land. The user was the Governor subject to the terms of the law. The land was not vested in the British Crown or in the British Empire.

In reply to the CHAIRMAN, Mr. ORMSBY-GORE said that the railways belonged to the State of Tanganyika, and before the war they had belonged to the German Imperial Government. The position adopted by the Administration was that, supposing the British Government resigned the mandate, it would have acquired no rights over the land.

M. van REES understood the explanation, but thought that the legal owner should have been more clearly stated in the ordinance.

Mr. ORMSBY-GORE stated that individuals possessed rights of occupancy and not of ownership in unalienated land. The ordinance was based on African traditions, and not on European notions of real property.

M. van REES understood from the explanations that the only right conferred by the ordinance of the Governor was the right of administering lands which in other territories were defined as domain lands.

Mr. ORMSBY-GORE replied in the affirmative.

Investigation of the Titles of former German Estates.

Sir F. LUGARD enquired what was the object of investigating the former titles and boundaries of the German estates. How many of these had been sold ?

Mr. ORMSBY-GORE replied that the whole question of liquidation arose out of Article 297 (*b*) of the Treaty of Versailles, which provided for the liquidation of German property throughout the territories of the Allies, and from Article 121, which expressly provided that the liquidation of German property applied to the ex-German colonies. The matter, therefore, was purely one between the British and German Governments. The question was a very complicated one, but he desired to reply in advance to the following questions arising out of it.

How was the money from German properties credited ?

The net proceeds of German estates were paid into a liquidation fund administered by a local custodian who was charged with the payment of certain classes of debts due to, and of claims by, British nationals resident in the territory. Any surplus would be paid to the British Clearing Office for the purpose of satisfying similar debts and claims due to British nationals resident in the United Kingdom, the Colonies and Protectorates. Credit would be given to Germany in accordance with the Treaty of Versailles.

What was the object of investigating the boundaries of German property ?

This necessity arose from the need of giving a sound title to persons to whom the liquidated properties were sold by the custodian. In most cases the Germans had destroyed the records giving the requisite information.

What sales had taken place and how had the capital been credited ?

Auction sales of ex-enemy real property had been continuing at intervals for the past two or three years, and were still continuing. As the liquidations were not yet completed, it had not been possible so far to give credit to Germany.

What German claims were being liquidated ?

The claims in question were not German claims, but claims against the German banks by other ex-enemy nationals, presumably in respect of deposits, etc.

Sir F. LUGARD, referring to page 26 of the report, enquired from whom the area of 12,000 square hectares handed over to the natives had been purchased, and whether the transaction had been a cash one.

Mr. ORMSBY-GORE replied that the transaction had been a cash one, the money having been paid by the Government of Tanganyika to the custodian of enemy property. The custodian had the duty of accounting for all properties thus liquidated in pursuance of these articles of the Treaty of Versailles.

Sir F. LUGARD enquired whether the mica and gold mines referred to on page 27 of the report had been the property of the German State, and if so, why they had not been transferred directly to the mandatory State.

Mr. ORMSBY-GORE replied that he thought that these mines had been granted as concessions by the German Government.

Sir F. LUGARD emphasised the importance of determining whether these properties had belonged to the German State, as in that case they should have reverted immediately, by the terms of the Treaty, to the mandated territory.

Mr. ORMSBY-GORE promised to look into the question.

Tribunals and Native Courts.

Sir F. LUGARD asked that greater details should be given in the subsequent report concerning the powers of native tribunals and courts.

Mr. ORMSBY-GORE promised to give the matter his attention.

Foodstuffs.

Sir F. LUGARD enquired why a purely agricultural population, such as that of the Tanganyika territory, found it necessary to import such large quantities of Indian grain and rice.

Mr. ORMSBY-GORE said that this question was being investigated. He thought, however, that the areas in Tanganyika at present capable of growing rice were limited.

Public Finances.

Mr. ORMSBY-GORE pointed out that that part of the report dealing with the finances of the territory had been summarised from the very full budget statement which it had been thought too large to have reprinted. He could, in future, make arrangements for copies of the budget to be at the disposal of the members if desired.

The CHAIRMAN desired that the figures given in future should enable the Commission to compare successive budgets. Further, the expenditure on natives and on whites should be kept separate. He noted that the estimates for the police force amounted to £100,000, and for education only to £8,000. Did £8,000 cover the total expenditure of education ?

Mr. ORMSBY-GORE replied that it covered only the expenditure by the Government on Government educational establishments. Most of the educational work was carried on by missionary schools which were not subsidised by the Government.

Sir F. LUGARD pointed out that the expenditure on education was only 4% of the total budget.

Economic Development.

Sir F. LUGARD enquired whether there were any export duties in the territory, and for what reason it was proposed to raise revenue on "bêche de mer" on a royalty basis (§ 57). What difference was there between a royalty on exports and an export duty ?

Mr. ORMSBY-GORE replied that there was none in practice and promised that a clear statement on import and export duties and on the whole subject of taxation in the territory should appear in next year's report. At the moment, there was no income tax on the whites in the country. The direct taxes were levied mostly on trade operations.

M. YANAGHITA pointed out that there were certain Asiatics living in the territory who had lived there for three or four generations, and enquired what was their status. Were they considered as natives or not ?

Mr. ORMSBY-GORE replied that, if the question was whether the non-indigenous natives of Africa without any other nationality were to be given the same status as the ordinary native inhabitants, the answer was, he thought, in the affirmative. It was very difficult to make distinctions between the Arabs and the other inhabitants. There was no Arab State of which this portion of the population could claim to be nationals. Before the war, when the territory had been German, many Indians had clung closely to their British nationality.

He promised to furnish the Commission at the next session with details concerning the question.

The CHAIRMAN enquired whether the trouble experienced by the administration of Kenya with the Indians would in the least degree affect Tanganyika territory.

Mr. ORMSBY-GORE said that primarily Kenya was an African territory and that the British Government thought it necessary definitely to record its considered opinion that the interests of the African natives must be paramount and that, if and when those interests and the interests of the immigrant natives conflicted, the former should prevail. It was obvious, however, that the interests of the other communities, European, Indian or Arab, would have to be safeguarded. In whatever circumstances the members of those communities had entered Kenya, there would be no drastic action taken and no reversal of measures already instituted. In the administration of Kenya, however, the British Government regarded itself as exercising a trust on behalf of the African population, and was unable to delegate or share this trust, the object of which might be defined as the protection and the advancement of the native races. The lines of development were as yet undetermined in certain directions, and many difficult problems awaited solution. It was Great Britain's mission to train and educate the Africans towards a higher intellectual, moral, and economic level. At the moment, special consideration was being given to the economic development of the native reserves within the limits of the finances of the colony.

The British Government wished also to record that in its opinion the annexation of the East African Protectorate which, with the exception of the mainland dominions of the Sultan of Zanzibar, had become the colony known as the Kenya Colony, in no way derogated from the fundamental conceptions of the duty of the Government towards the native races. The paramount duty of trusteeship would continue to be carried out by the agents of the Government and by them alone.

The claims and grievances of the Indians domiciled in Kenya might be summarised under the following headings: Representation on the legislative council, representation on the executive council, representation on the municipal councils, segregation, reservation of the highlands for Europeans, immigration.

At present there were eleven elected unofficial European members on the Council, and a provisional measure in 1921 had provided for the substitution of four nominated Indian members for the two elected Indian members contemplated in Lord Milner's despatch of May 21st, 1920. Provision would now be made for five elected Indian unofficial members on the Council and for one Arab elected member in addition to one nominated member. The Europeans would continue to return eleven elected representatives; the numbers of nominated officials would be fixed so as to maintain an official majority on the Council.

The British Government had been unable to meet Indian wishes with regard to the reservation of the highlands. This was the principal matter under contention. Successive British Governments had held out definite undertakings to white settlers to be allowed to develop these lands, and the British Government could not break these undertakings.

The CHAIRMAN said that it was evident from the explanations of Mr. Ormsby-Gore that the position in Kenya would not at present affect the position in Tanganyika.

Loans by the Mandatory Power.

The CHAIRMAN put the general question put to all mandatory Powers regarding loans and securities. What was the view of the British Government on the legal consequences of the advancing of loans, with or without security, by the mandatory Power to the mandated territory ?

Mr. ORMSBY-GORE said that he could not give a considered reply, but that he realised that the matter was of great importance, particularly in Tanganyika, which was run at a very considerable loss. The tendency was to regard grants to Tanganyika as a non-interest-bearing loan against the territory.

Date of the Next Report.

The CHAIRMAN informed Mr. Ormsby-Gore that the Commission had provisionally decided to meet on June 15th, 1924, which would necessitate the arrival in Europe by May 15th of the report for Tanganyika and the other British mandated territories. He enquired whether it would be possible for this to be done.

Mr. ORMSBY-GORE replied that he would inform the governors of the various mandated territories of this decision of the Mandates Commission, but he thought it would be very difficult, if not impossible, to obtain the reports in time.

M. RAPPARD explained the reasons for the Commission's decision to advance the date of its next session. It had been remarked at the last Assembly that the Mandates Commission seemed to be corresponding directly with the mandatory Powers. Moreover, in accordance with Article 22 of the Covenant, the documents of the Mandates Commission could be submitted to the Assembly only by the Council. The documents for submission to the Council had to reach it two weeks before its meeting. It was therefore necessary for the documents of the Mandates Commission to be in the hands of the Council by August 15th. It would be possible, perhaps, by a great increase in work, to do this on the present occasion, but it would not be possible to repeat the procedure indefinitely in the future. The ideal would be for the Members of the League to have the documents of the Mandates Commission in their hands in sufficient time to allow them to instruct their representatives at the Assembly to raise any points which might interest any individual Government. In order to effect this, it appeared therefore necessary for the Commission to meet about June 15th, so that its report should be ready by the middle of the month following.

Mr. ORMSBY-GORE said that he would do his utmost to fulfil the requirements of the Mandates Commission in this respect. There were, however, very many difficulties.

TWENTY-FIRST MEETING (Private)

held at Geneva on Thursday, August 2nd, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar.

182. Examination of the Report on the Administration of British Togoland in the presence of Mr. Ormsby-Gore.

Mr. Ormsby-Gore, accredited representative of the British Government, came to the table.

The Chairman drew the attention of Mr. Ormsby-Gore to the fact that, according to the Covenant, reports on mandated territories should be addressed to the League of Nations by the mandatory Power, whereas the British report on Togoland was addressed to the Secretary of State for the Colonies in London.

General Observations.

M. van Rees said that the remarks which he had made on the preceding day applied equally to Togoland and to the Cameroons. The report appeared to be rather summary. It did not contain any map. The map provided last year could not be used because the new administrative divisions could not be marked. The texts mentioned in the report were also lacking — for example, the proclamation of September 30th, 1914. He would draw Mr. Ormsby-Gore's attention to the fact that it would be very useful for the Commission if future reports were drafted on the model of other reports, which reproduced the questionnaire at the end and gave a clear and precise answer upon each item.

Mr. Ormsby-Gore asked the Commission if it would indicate in its report what it wished to have done in next year's report. The British Government had given directions to the Governors of the territories that the questionnaire was to be used as a guide without being too slavishly followed. When the report on Togoland reached London, it was realised that it did not reply sufficiently clearly to certain specific questions, and he had telegraphed to the Governor putting a certain number of questions, to which the Governor had replied on June 1st, saying that supplementary information was being collected. The Commission would receive this information as soon as it arrived.

M. van Rees further remarked that the report did not give any information on the general lines of the administrative organisation of the territory. It was not clear whether there were only two officials attached to the territory, or whether there were other officials. How were the powers of the administrators regulated? What were the principal public services? Had the natives a share in public functions? It was stated on page 19 of the report that native justice was regulated by a German ordinance given on page 28 of the previous report. The administration of justice would thus seem to be exclusively in the hands of the native chiefs. Except as regards the right of appeal to the chiefs of districts, neither the ordinance nor the report made any mention of the intervention of the British authorities. Were these authorities wholly passive, and did they play no active part in the administration of native justice? The report was silent on this point.

Mr. Ormsby-Gore reminded the Commission that it was not possible to consider the territory as one country. The only practical procedure was to administer it as part of the Gold Coast. The Gold Coast was divided into three distinct administrative zones: the southern zone, commonly known as the Gold Coast Colony, the middle zone, which was the old kingdom of Ashanti, and the northern territories, which were still in a very primitive state. The narrow strip of British Togoland contained only two towns. It had no natural capital and no principal centres. Its administrative arrangements corresponded with the three divisions of the adjacent British colony.

Presumably, the British administrators of these various districts had duties similar and subordinate to those of the officials placed at the head of the three services of the British administration of the Gold Coast. The next report would explain the position more clearly.

M. ORTS recognised that the attachment of Togoland to the Gold Coast was clearly imposed by circumstances. Nevertheless, it rendered the task of the Mandates Commission very difficult, and it would be well to ask the authorities of the Gold Coast whether in their reports they could not throw into relief the conditions which were peculiar to the mandated territory.

Mr. ORMSBY-GORE pointed out that the practical effect of attaching British Togoland to the Gold Coast for administrative purposes was to make it necessary for the administration of the Gold Coast to conform with the principles of the mandate. It had, further, entailed economic advantages for the mandated territory. The Gold Coast was a prosperous colony which had a balance of two millions sterling and a rapidly developing system of railways and education.

General Administration.

Sir F. LUGARD, referring to paragraph 109, on page 22 of the report, said that the immigration into the British zone of natives from the French zone had been discussed when the Commission was dealing with French Togoland. Could Mr. Ormsby-Gore give any information on this subject?

Mr. ORMSBY-GORE stated it was clear from the report that the reason for this immigration was the enormous development of the cocoa industry on the Gold Coast and the consequent need of labour.

Sir F. LUGARD said it had been stated in the Commission that it was due to a desire on the part of the natives to escape taxation, which it was understood the French desired.

Mr. ORMSBY-GORE did not think that this was possible. The natives who came to the cocoa plantations were paid in sterling. They would return to French territory and pay their taxes in French currency.

Sir F. LUGARD drew attention to complaints which had been made in French newspapers to the effect that Togoland had for all practical purposes been annexed to the Gold Coast; the mandate, however, permitted it to be administered as an integral part of that colony.

Mr. ORMSBY-GORE said that, if this strip were not attached to the Gold Coast, there would be considerable administrative difficulties, particularly as British Togoland could not be self-supporting.

M. ORTS pointed out that the steps taken were in conformity with the British mandate.

Mr. ORMSBY-GORE said that, if this had not been the case, the British Government would have been obliged to apply to the Council to enable them to make the existing arrangement.

Sir F. LUGARD enquired whether it would be possible to have a special budget for the mandated territory.

Mr. ORMSBY-GORE said that this would be extremely difficult. The Governor had been asked whether the mandated territory could be administered as a separate province. He had replied in the negative. All the central services were common to Togoland and the Gold Coast, and separate accounts could not, therefore, be kept. He would also point out that there were no customs posts on the Gold Coast-Togoland frontier.

The CHAIRMAN said that the Commission would note with satisfaction that the mandated territory was enjoying all the advantages derived from its attachment to a prosperous colony. He would venture, however, to call Mr. Ormsby-Gore's attention to the fact that the Commission desired to have a report on the mandated territory from the mandatory Government itself. The report presented this year was a report received from the Governor. It might happen that the Government might itself have observations to make on the Governor's report.

Sir F. LUGARD asked whether there had been any intersection of tribal areas owing to the division of Togoland between the French and British.

Mr. ORMSBY-GORE said that there had been temporary difficulties due to the fact that most of the natives had looked to their former capital city, Lomé. They were now, however, beginning to look to the Gold Coast.

Slavery.

Mr. GRIMSHAW, referring to paragraph 14, asked whether the reference to the *Abolition Act* of 1807 and the ordinances mentioned in that paragraph were correct.

Mr. ORMSBY-GORE said that these early acts had all been collected in volume form. He would send extracts of any acts or ordinances which the Commission might wish to see.

Mr. GRIMSHAW enquired whether the two German laws referred to in paragraph 14 were still in force.

Mr. ORMSBY-GORE did not think that they had been repealed.

Sir F. LUGARD said that he would much like to see the Act of 1807 and those of 1874 referred to. He pointed out that these laws prescribed formalities before a slave could obtain his freedom. This seemed to indicate that the status of slavery was still recognised, even in law, and that slavery had not been abolished as stated.

Mr. ORMSBY-GORE presumed that these ordinances applied to the northern territory, which was not yet very closely administered.

Mr. GRIMSHAW said that paragraph 15 also appeared to indicate that the legal status of slavery still existed.

Mr. ORMSBY-GORE pointed out that the paragraph in question appeared to refer to conditions which had existed "in the past".

Labour.

Mr. GRIMSHAW said that the references in paragraph 19 to the recommendations of the International Labour Conferences seemed to indicate that they were unknown to the Administration of the territory.

Mr. ORMSBY-GORE said that these documents had been circulated to all the Governors of British colonies, and would certainly have been sent to the Governor of the Gold Coast.

He would point out in this connection that there was no factory or railway or organised industry in the mandated territory, though in the Gold Coast there were mines, railways, harbours, and building enterprises. He would ascertain what action had been taken in the Gold Coast with regard to the conventions and recommendations of the International Labour Conferences.

Mr. GRIMSHAW pointed out that, in paragraph 20, regulations were described referring to hours of labour, holidays, etc.

Mr. ORMSBY-GORE said that these regulations doubtless applied to natives engaged upon roads and employed by the administration.

Mr. GRIMSHAW asked to what extent forced labour existed, and how it was recruited.

Mr. ORMSBY-GORE said that recruiting was probably done through the tribal organisation. Elsewhere under British rule in Africa, the recruiting of labour was effected through the tribes, and the tribes were responsible for constructing and clearing the roads.

Mr. GRIMSHAW drew attention to the wording of paragraph 25, which stated that the control of labour was "guided" by the Gold Coast Employment of Labour Ordinance, No. 11, 1921. Had this ordinance been actually extended to Togoland ?

Mr. ORMSBY-GORE said that he would enquire into the matter.

Mr. GRIMSHAW pointed out that in this ordinance industrial establishments were defined as establishments employing more than ten persons. Were there any regulations for smaller employers ?

Mr. ORMSBY-GORE did not think there were any other regulations. He pointed out that no white labour was used on the plantations. The only white people were traders and officials.

Arms Traffic.

No observations.

Traffic in and Manufacture of Alcohol.

Sir F. LUGARD enquired as to the imitation spirits referred to in paragraph 32 of the report. How were they defined or recognised as such ?

Mr. ORMSBY-GORE said that new regulations had been drawn up which would apply to the whole of British West Africa, with a view to giving effect to the Convention of St. Germain. It was necessary under this Convention to define the spirits which might be imported. This was a very difficult matter. It had been decided that the importation of rum should be limited to spirit produced from sugar cane in the cane growing countries, which had matured for three years.

The practical effect of this definition would be that the import of European rum would be prohibited and that only rum from Cuba, Jamaica and Guiana would be admitted. The new regulations would be administered by the customs officers, who would require certificates of origin and of maturity. He did not know exactly how the machinery would work, but there was full provision for a verification of the certificates. Similar regulations were made in regard to whisky. The real difficulty was in the definition of gin. It was difficult to find a definition of gin which would exclude trade spirits. For this purpose, a schedule would be used and only gin of good quality admitted.

Sir F. LUGARD enquired whether a schedule naming special brands would not expose the mandatory Power to the charge of favouring its own nationals.

Mr. ORMSBY-GORE said that the system would certainly favour the products of British and Dutch firms, but it was the only possible way of limiting imports to spirits of a regular standard and quality. The samples would be examined from time to time.

It had been suggested that gin should be entirely prohibited, but this proposal had aroused a strong protest in West Africa, as gin was the spirit preferred both by the natives and by the Europeans. It was the least harmful of all the spirits, provided the quality was sufficiently good. A duty of 25s. per gallon would be levied on the import of gin.

Sir F. LUGARD referred again to the definition of trade spirits. Personally, he understood that trade spirits were spirits used as an article of trade and barter with the natives. The term did not include liquor sold for ordinary consumption.

Similarly, the term "liquor traffic" required definition. In British West Africa, it had always, he thought, been limited in the same way, viz., to the use of spirits as an article of trade with the natives. If this definition were accepted, the question of "trade spirits" became one of price only, and the difficulty disappeared.

M. RAPPARD enquired whether there was any objection to having the question of the traffic in spirits discussed at the plenary meeting of the Commission before the accredited representatives of the mandatory Powers.

Mr. ORMSBY-GORE thought that this would be a very suitable question for public discussion. He would point out, however, that the final draft of the regulations which the British Government proposed to introduce was not yet published.

M. ORTS said that, at the various international conferences on the regulation of the drink traffic, which he had attended, the terms "trade spirits" and "trade in spirits" had been taken in a sense different from that indicated by Sir F. Lugard. The trade in spirits was regarded as covering the sale of any liquor of whatever quality to natives, whether in large or small quantities. He pointed out that, in certain zones, there was an absolute prohibition of any trade in spirits, and in that case not merely a prohibition of their use as an article of barter.

Mr. ORMSBY-GORE said that there was an absolute prohibition of any trade in spirit in Northern Nigeria.

Sir F. LUGARD said that the prohibited zones created by the Brussels Act were zones within which the traffic in imported spirits had not penetrated at the time the Act was framed. Trade spirits were employed as a medium of currency. Some of the natives even hoarded these spirits as a form of wealth. The liquor traffic in this sense was regarded as something quite distinct from the sale of high class spirits for consumption by Europeans and educated natives.

The prohibition of trade spirits thus became entirely a question of price. In the memorandum prepared for the Commission, he had accordingly suggested a definition based on price.

Mr. ORMSBY-GORE said that the West African merchants had asked for a reduction of the duty on spirits, but that this request had been refused.

Sir F. LUGARD enquired what measures were taken to control the manufacture of native fermented intoxicants.

Mr. ORMSBY-GORE said that the control of native spirits was very difficult to enforce. He referred in this connection to paragraph 33, in which it was stated that the inhabitants, as a result of the restrictions on the import of spirits, had resorted to the excessive consumption of palm wine in the palm wine areas. The natives needed this liquor for their funeral customs. The results were extremely serious. Palm wine was more injurious than ordinary spirits, and natives consuming it were frequently incapacitated for a week at a time.

Sir F. LUGARD noted that fermented liquors were allowed up to 10 per cent and wine up to 20 per cent. Were any preventive measures taken against fortified wines?

Mr. ORMSBY-GORE said that he would enquire into the matter.

Sir F. LUGARD drew attention to the resolution which the Mandates Commission had passed regarding the equalisation of duties on spirituous liquors:

> "The Mandates Commission, recognising that dissimilarity in the import duties imposed on spirituous liquors imported into mandated territories gives rise to smuggling from continuous territories, and may be a cause of friction:
>
> "Recommends that the Governments of France and Great Britain be invited to agree that the duties on all spirituous liquors imported into the territories placed under their mandates in Africa, should not be less than the duties in their adjoining territories, on similar spirits of equal strength.
>
> "And further that, in order to maintain this uniformity of duties, it is desirable that the two Powers should consult with each other from time to time with a view to assimilating their laws and regulations applying to the duties on import of spirituous liquors."

Mr. ORMSBY-GORE said that it was obviously desirable to secure uniformity. There would be some difficulty owing to the difference in the rate of exchange.

Sir F. LUGARD asked whether Mr. Ormsby-Gore accepted the principle.

Mr. ORMSBY-GORE said that he accepted the resolution in principle, but it was a matter for discussion between the two Governments concerned.

Liberty of Conscience.

No observations.

Military Clauses.

No observations.

Economic Equality.

Sir F. LUGARD pointed out that in paragraphs 101 and 105 there were references to preferential treatment allowed by the French on cocoa shipped from Togoland to France.

M. ORTS pointed out that the French Government had extended this preferential treatment to the French mandated territory and that, in consequence, cocoa produced in the neighbouring territories was sent through French Togoland, in order that it might benefit from the preference on importation into France.

Sir F. LUGARD pointed out that British cocoa also enjoyed a preference when imported into British territory. It was therefore not clear what advantage would be derived from sending cocoa of British origin through the French mandated territory.

Mr. ORMSBY-GORE observed that the bulk of the world's cocoa produced was British. The effect of the British preference was accordingly small. The production of French cocoa was small and the effect of the preference was accordingly greater.

Sir F. LUGARD pointed out that in any case there was no violation of the mandate.

Education.

Mme. BUGGE-WICKSELL asked whether she could have next year the curricula of the unassisted mission schools.

Mr. ORMSBY-GORE noted this request.

Sir F. LUGARD asked whether in future the percentage of the revenue spent on education could not be indicated.

Mr. ORMSBY-GORE undertook to supply this information for the British mandated territory and the Gold Coast.

M. d'ANDRADE asked whether, in the opinion of Mr. Ormsby-Gore, instruction should be given in the language of the country or in the language of the mandatory Power.

Mr. ORMSBY-GORE said that in the majority of the schools English was taught. He would enquire as to the practice followed.

M. d'ANDRADE pointed out that, in some countries, the teaching of the language of the mandatory Power was compulsory from the beginning. In others, for example Tanganyika, elementary instruction was given in the language of the country, and the language of the mandatory State was used only in the higher classes.

Sir F. LUGARD thought that the important point was the language used as a medium of instruction — not whether or no an European language was taught.

Missions generally desired to use the language of the country.

Public Health.

M. RAPPARD read the passage in the report of the Count de Ballobar relating to British Togoland (Annex 9).

Mme. BUGGE-WICKSELL had been asked by the Council for the Representation of Women in the League of Nations to raise the question why the Convention of 1921 on the Traffic in Women and Children had not been brought into application in the British mandated territories of West Africa. She knew that the same question had been raised in the British Parliament and had been answered to the effect that there was no need for the application of this convention in the territories in question. On the face of it, this ought to be the most satisfactory answer that could be given ; but the reading of paragraph 79 of the Togoland report made it quite clear that, however inapplicable might be the Convention in question, the whole question of prostitution must be taken up and dealt with very seriously. It was, however, very difficult to see what could be done, and Mme. Bugge-Wicksell had only one suggestion to make: namely, to give hygiene a very prominent place in the educational programmes and to teach the whole population the risks of prostitution and the dangers of venereal diseases.

Mr. ORMSBY-GORE said that enquiries should be made into the matter. There was no such thing as regular prostitution in the Gold Coast.

Sir F. LUGARD said that the Commission had been informed by M. Duchêne that the severe restriction of emigration imposed on women by the French authorities was due to a desire to check traffic in women. This statement had surprised the Commission, since it was not aware of any such traffic now or in the past.

Mr. ORMSBY-GORE said that the British authorities had no knowledge of the traffic in question other than that given in the report in connection with Lomé.

Land Tenure.

M. van REES asked whether there existed for Togoland any legislation on the State domain. There was a reference to an ordinance on page 40 of the report which dated back to the German regime. Was this the only ordinance existing ?

Mr. ORMSBY-GORE said that, on May 18th, 1923, he had sent to the Governor of the Gold Coast a telegram as follows:

> "Further information required on following points: (1) Venereal diseases; what steps taken to cure diseases; how many cases annually dealt with; are any native practitioners employed? (2) Land system: Is there any land in British Togoland that was alienated by Germans ; if so, what has been done with it ? How does Government acquire land for its own purposes and to whom is payment made ? Have any Gold Coast Ordinances been applied ; if so, when ? (3) What amount of liquor estimated to have been actually imported into British Togoland ? Report as fully as possible by despatch at earliest opportunity."

He stated that there had been a noticeable movement in the direction of the private ownership of land, which would need to be carefully watched. The old tribal system was apparently breaking down. Despatches on the question had been received from Uganda. He would specially enquire into this movement, if he should visit West Africa during the winter. The movement was apparently due to the action of chiefs entrusted with political and administrative powers, who were perhaps using their position to acquire land.

M. YANAGHITA said that he had noticed in last year's report that there had been an adjustment in the boundary between the Gold Coast territory and the mandated territory. Did this mean that land had been taken from the mandated territory ? If this was so, the Council should have been informed. Could Mr. Ormsby-Gore explain whether the report on the mandated territory covered the area in question ?

Mr. ORMSBY-GORE said that the matter was dealt with in paragraph 78 of the report of the previous year. Tribes inhabiting these districts were during the German administration of Togoland artificially divided by the international boundary. The Anglo-German boundary had been unsatisfactory, but the mandate had put the position right. One of the reasons why the whole of Togoland was not treated as one territory under the French Mandate was the existence of these tribes in Western Togoland part of which inhabited the Gold Coast.

The new boundary for national and administrative purposes was satisfactory. The area to which M. Yanaghita alluded was included within the mandated territory, and covered by the report.

Sir F. LUGARD inquired whether the German disciplinary laws had been entirely repealed.

Mr. ORMSBY-GORE said that he would ascertain what German legislation was still in force. English common law had always been the fundamental law in West Africa.

Public Finance.

The CHAIRMAN pointed out there was not much to be said with regard to public finance, as the budget of the territory was not separate. On page 42 of the report, sources of revenue were given, and the items indicated, but there were no figures. He inquired what currency was in use in the country.

Mr. ORMSBY-GORE stated that the West African colonies had their own currency board with its own reserves, notes, and powers of redemption.

The CHAIRMAN enquired whether there were any exchange difficulties.

Mr. ORMSBY-GORE replied in the negative. The constitution of the West African Currency Board provided for the redemption of that currency at par in London. The real difference between West Africa and Great Britain was that in West Africa silver was legal tender up to an unlimited amount.

The CHAIRMAN pointed out that the discrepancy between expenditure and receipts was fairly large, and that it was the budget of the Gold Coast which struck the balance. It was accordingly not the Government of the mandatory Power but the colony of the mandatory Power which made up the deficit in the budget.

The Commission desired the budgets of all the mandated territories to be presented in a form which would enable a comparison to be made with the budgets of previous years, and that expenditure in the interest of the natives should be presented under separate items.

Sir F. LUGARD enquired why the poll tax had been abolished, and whether any form of taxation had been substituted.

Mr. ORMSBY-GORE explained that the poll tax had been abolished in the mandated territory because there was no poll tax levied on the Gold Coast.

International Conventions.

M. ORTS wished to see a list of the international conventions applying to neighbouring British territories which had been extended to the mandated territory of Togoland.

Mr. ORMSBY-GORE noted this request and would ask for a list to be included in the next report.

183. EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF THE BRITISH CAMEROONS IN THE PRESENCE OF MR. ORMSBY-GORE.

The CHAIRMAN pointed out that the report was addressed to the Duke of Devonshire.

Mr. ORMSBY-GORE said that next year the report would be addressed to the League of Nations in the correct form.

Administrative Questions.

M. ORTS drew attention to the fact, noted in the minutes of the meeting held on the morning of July 24th, 1923, that the system of administration introduced into the Cameroons had resulted in dividing up the territory under mandate into three administrative portions. So far, however, as the Mandates Commission was concerned, there was only a single territory, namely, the territory under mandate, and it was important that the report should be drawn up in such a way as to facilitate the work of the Commission.

The CHAIRMAN presumed that Mr. Ormsby-Gore was familar with the frontier question which was alluded to in paragraph 18 of page 11 of the report.

The Commission had proposed to raise this question at the plenary meeting in the presence of the accredited representative of the French Government. The French Government had said nothing with regard to the matter.

The Commission had agreed that, before issuing any recommendation, it was necessary to ask the accredited representatives of the British Government what were the causes of the difficulties which had arisen, and how these difficulties might be remedied.

Mr. ORMSBY-GORE said that the Governor of the Gold Coast, in a despatch of the previous year, had pleaded for considerable modifications in the Anglo-French boundary.

It was felt that the right thing to do in a difficult boundary question of this character was to obtain reports from the Governors on the spot.

Would it not be well to ascertain the views of the French Administrator and of the British Administrator concerning the Milner-Simon agreement on this boundary. It was clear that this boundary, which was drawn in Paris, was not based on local knowledge, as the territory was then in the hands of the Germans. The difficulties alluded to had arisen since, and were unknown to the authors of the boundaries in Paris.

Sir F. LUGARD pointed out that the original difficulty arose from the fact that under the 1890 agreement with Germany virtually the whole of the Yola territory was ceded to the Germans, and that practically only the capital of this district remained in British hands. When the mandates were distributed, it was decided that the greater part of the Cameroons should go to France, but an exception was made of the Bornu territory. Practically the whole of the Yola territory was allotted to France.

In the South also, the boundary was badly drawn. It cut through various tribal areas and divided tribal entities. This was a less difficult question than the question of the northern boundary, where a very large area was involved.

There was acute feeling on the spot, because the Emir of Yola had fought against the Germans, and had hoped that he would receive part of his territory back. This was an international question, and there had been considerable correspondence with regard to it.

M. ORTS was under the impression, from what Mr. Ormsby-Gore had said, that it would be premature for the Commission to deal with the matter.

It seemed that a consultation of the authorities on the spot should precede any negotiation between the two Governments. The Commission had only the opinion of one of the parties involved.

Mr. ORMSBY-GORE reminded the Commission that it was on the initiative of the Council of the League that the similar question of the Ruanda boundary had been raised.

The British Government had followed the suggestion then made, with the result that an agreement had been reached. Would it be possible for the Council to suggest to the two Governments that the French Governor of the Cameroons and the British Governor of the Cameroons should examine the questions to be settled along the southern frontier. Machinery would thereby be set in motion which might carry the question further next year.

Sir F. LUGARD said that it would be advisable to suggest that the two Governors should examine the question and that the Commission should not go into any details of the difficult diplomatic problems at issue or the question of the portion of the boundary which required rectification.

M. BEAU said that the question of the northern boundary was extremely serious. The question of Yola had arisen from the earliest days of the exploration of Africa, since it raised the whole question of access to the Cameroons, as Yola was the terminus for navigation on the Benue River.

The CHAIRMAN thought that the Commission should not enter into the substance of the question. It had been agreed that the matter should not be raised until M. Duchêne had been heard. Mr. Ormsby-Gore, however, had reminded the Commission of the procedure followed last year, on the suggestion of the Belgian member of the Commission, with regard to the Ruanda frontier, and this procedure had been attended with success.

Did the Commission desire simply to postpone the question after M. Duchêne had been heard, or did it wish to draw the attention of the Council to the subject, indicating that difficulties had arisen ? The Council might then consider whether it was advisable to draw the attention of the two Governments to the matter, and it would be for the two Governments to come to an agreement.

Sir F. LUGARD suggested strongly that the Commission, in drawing the attention of the Council to the matter, should base its action on the fact that the Commission was looking after the interests of the natives in respect of their tribal areas, and was not raising the subject as an international territorial question.

The CHAIRMAN asked Sir F. Lugard whether the question should be put only with regard to the southern frontier, or whether a vague formula should be employed, referring generally to the frontiers between the British and French Cameroons.

Sir F. LUGARD said that it would be preferable to refer to the Cameroons in general.

M. BEAU thought that it would be well not to refer to any rectification of frontiers, but simply to the interests of the tribes. Many of the difficulties might be resolved by local arrangements with regard to pasturage, etc.

The CHAIRMAN proposed to keep as far as possible to the terms which the Commission had used the previous year in drawing the attention of the Council to the Ruanda boundary.

M. RAPPARD pointed out that in Article 1 of the British mandate for Togoland and the Cameroons, reference was made to the Milner-Simon Agreement; it was stated that the determination of the frontier on the spot would be made by a mixed Commission.

Mr. ORMSBY-GORE said that the report of this Commission had not yet been received in London.

Agreements with Native Chiefs.

M. van REES wished to ask whether there existed between the Emir of Dikwa and the British Government any convention or regulation delimiting their respective powers.

Sir F. LUGARD said that, so far as he knew, there was no such treaty, and that the powers of the Emir were not formally defined.

Mr. ORMSBY-GORE stated that there was a British Resident in the Emirate, whose advice must be followed in all important matters.

M. van REES asked whether the Emir was aware of the powers left to him.

Sir F. LUGARD, being referred to by M. Ormsby-Gore, said that, so far as he knew, the powers of the Emir remained intact except that he might not initiate legislation, levy taxation, or raise any armed forces. He did not know how far the system prevailing in Nigeria in his time had been extended to Dikwa. The report indicated that certain modifications had been made. He noted, for example, that, according to paragraph 38 or the report, slavery cases were only dealt with in the native courts.

Slavery.

Mr. GRIMSHAW, referring to the statement on page 7 of the report to the effect that the manumission and reduction of domestic slaves was usually dealt with by the native courts which administered Mahommedan law pointed out that this impled that the status of slavery still seemed to be recognised legally.

Mr. ORMSBY-GORE said that in Mahommedan communities a slave who was not freed according to the formalities of the native courts was not regarded either by himself or the natives generally as actually emancipated. Native courts had been left certain powers in order to satisfy public opinion. The status of slavery was not, however, recognised by the British courts. He would enquire whether in fact a recognised status existed, and how far emancipation was proceeding in accordance with native procedure.

Mr. GRIMSHAW noted that in paragraph 42 of the report references were made to the activities of slave traders on the frontier.

Sir F. LUGARD said that it was important in this connection to secure co-operation between the French and British authorities.

Mr. ORMSBY-GORE said that he would enquire as to the facts contained in this paragraph.

Mr. GRIMSHAW drew the attention of Mr. Ormsby-Gore to further references to the subject contained in paragraphs 43 and 67 of the report.

Liquidation of German Property.

The CHAIRMAN enquired whether any special difficulty had been experienced in disposing of ex-enemy property in the Cameroons and, if so, whether this difficulty was due to a certain want of confidence in the permanence of the mandate.

Mr. ORMSBY-GORE said that, at the time when the auction of German property was held, money was scarce, and that there was little trade being done in tropical produce. There was, however, no doubt that business men felt that there was a lack of security of tenure, especially in the Cameroons.

The CHAIRMAN enquired whether there were any Germans in the territory.

Mr. ORMSBY-GORE said that they had all been repatriated.

M. ORTS asked whether they were allowed to return.

Mr. ORMSBY-GORE replied in the negative.

Labour.

Mr. GRIMSHAW, referring to paragraphs 46, 47 and 48 on page 20 of the report, asked for particulars as to the number of workmen employed, and the conditions of employment. He also referred to paragraphs 16 and 19 on page 35, which appeared to indicate that some form of moral compulsion or pressure was exercised. What was the nature of this compulsion ? There was a reference to prosecutions for refusal to obey the native administration.

Mr. ORMSBY-GORE said that a copy of the ordinance would be sent to the Commission. The labour in question was all voluntary; and it came voluntarily to the plantations from both sides of the frontier.

Mr. GRIMSHAW enquired as to the disciplinary powers of the employer. There were vague references to these powers in the report, but no direct statement.

Mr. ORMSBY-GORE said that he would forward the sections of the penal code dealing with the matter.

Arms Traffic.

Mr. ORMSBY-GORE desired to raise a question with regard to the enlistment of natives in the Nigerian Regiment. He made the following statement :

> "With regard to Article 3 of the British Mandate for the Cameroons, no special force has been raised for the defence of the mandated territory. A company of the 3rd Battalion of the Nigeria Regiment, West African Frontier Force, has, however, been stationed in the mandated territory at Bamenda for the maintenance of order.
>
> "Since this company has been stationed there, a number of Cameroon natives have presented themselves voluntarily for enlistment. Of these, 189 men have been enlisted and posted to the various companies of the Battalion. It is thought possible that this point may be raised by the Mandates Commission, as a native regularly enlisted in any unit of the West African Frontier Force is liable to serve in any part of West Africa. If so, the point to be cleared up is whether Article 3 of the mandate should be construed as preventing the mandatory Power from accepting natives of the mandated area for voluntary enlistment in a force organised before the mandate was granted."

M. RAPPARD read Article 3 of the mandate, which was in the following terms :

> "The mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications, nor organise any native military force, except for local police purposes and for the defence of the territory."

Mr. ORMSBY-GORE explained that the Governor desired to avoid setting up a special force for the Cameroons. Natives desiring to enlist would, therefore, have to be enlisted in the Nigeria Regiment.

Was there any serious objection to recruiting up to 300 volunteers ? He would like to have an expression of opinion whether such recruiting was contrary to the spirit of the mandate.

M. RAPPARD thought that it was the intention of Article 3 of the mandate to prevent the mandatory Power from using its position as mandatory to increase its military strength elsewhere than in the mandated territory.

M. ORTS thought that the question of principle remained the same whether the question was one of voluntary enrolment or of obligatory service, whether 300 or 30,000 men were concerned. What should be cleared up was the question whether it was in conformity with the spirit of the system that the exercise of the mandate should confer upon the mandatory the means to develop its military power.

The text of Article 3 of the British mandate gave no specific answer to the question. What Article 3 forbade was the organisation *in the territory itself* of a military force other than that necessary for police and local defence. Could advantage be taken of these terms to consider as legitimate a practice which consisted in enrolling men in the territory in view of the fact that these men would be put into units organized on the other side of the frontier in the neighbouring colony ?

Sir F. LUGARD said that it would be equally a violation of the principle if the men were sent from the Cameroons to Nigeria to be recruited there. He was inclined to agree with M. Orts on the question of principle.

M. ORTS enquired what were the practical difficulties against recruiting local police forces on the spot.

Mr. ORMSBY-GORE said that the difficulties were purely administrative. A separate organisation would be less effective.

M. ORTS observed that the Council, with a view apparently to facilitating administration, had allowed that mandated territory should be constituted in administrative unions or federations with the neighbouring British territories. It would not be reasonable to request the Commission to consent to a fresh exception in order to meet new inconveniences, resulting from a favourable regime already accorded.

Sir F. LUGARD agreed that the principal was of great importance.

M. ORTS stated that the principle should be clearly distinguished and it should be said whether such principle allowed the mandatory to make use of mandated territory as a reservoir of men whence bodies of troops destined to take action outside the territory should be drawn.

The Commission, the attention of which had been drawn by the report of the mandatory Power to the incorporation in the armed forces of Nigeria of a contingent of troops raised in the British Cameroons, and the advice of which had been asked upon this subject, was of opinion that it would be contrary to the principles of the Covenant, and in particular to Article 3 of the mandate for the British Cameroons, to allocate resources in men or in goods of the mandated territory to the increase of the military forces of the mandatory Power outside the mandated territory.

TWENTY-SECOND MEETING (Private)

held at Geneva on Thursday, August 2nd, 1923, at 3.30 p.m.

Present: All the members of the Commission, with the exception of the Count de Ballobar.

Mr. Ormsby-Gore, accredited representative of the British Government, attended the meeting.

184. Examination of the Report on the Administration of the British Cameroons in the presence of Mr. Ormsby-Gore (*continued*).

Arms Traffic.

Sir F. Lugard said that it had appeared to be the view of certain representatives of mandatory Powers that the Convention of St. Germain of September 10th, 1919, which referred to the traffic in arms, prohibited the importation of flint-lock muzzle-loading guns (Dane-guns), though the Brussels Act of 1890 had limited the prohibition to "arms of precision" and had not forbidden flint locks and trade powder. Article 1 of the Convention did not appear to include these as prohibited weapons, which was the view of Mr. Ormsby-Gore.

A further point was that it was more useful to know the approximate number of arms in the hands of the natives than the number of sporting rifles imported and re-exported by European sportsmen.

Mr. Ormsby-Gore replied that the Dane-gun was useful against the depredations of elephants, and was not forbidden.

Liquor Traffic.

Sir F. Lugard, referring to page 8 of the report, enquired why, since the Dikwa territory was part of the prohibition zone, the regulations which were applicable to such zones and which obtained in the northern provinces of Nigeria had not yet been applied to it. They had, he thought, been applied under the Germans.

Mr. Ormsby-Gore promised to obtain information on this question.

Economic Equality.

No observations.

Education.

Mme. Bugge-Wicksell wished to have information regarding the village and daily life of the population. She hoped that next year the administration would be able to include a chapter under this heading in its report.

Mr. Ormsby-Gore referred Mme. Bugge-Wicksell to Mr. Morel's book on Nigeria, which contained many interesting details about native habits in Northern Nigeria, where the social organisation was similar to that in the Northern Cameroons.

Liberty of Conscience.

Sir F. Lugard drew Mr. Ormsby-Gore's attention to the remarks on page 40 of the report where it was stated:

> "No obstacle of any kind is placed in the way of the expansion of missionary work and the German system of spheres of influence assigned to the various missions has not been adhered to".

Though that system appeared to have been successful under the Germans, it was now abolished.

Land Tenure.

M. van REES referred to the remarks on page 22 of the report in regard to land tenure in Dikwa. On page 9, however, it was stated that the Land and Native Rights Ordinance was enacted in order to secure to the natives of the northern provinces of Nigeria the customary rights to use and enjoy the land of the Protectorate. How was it possible to apply this ordinance to Dikwa, and at the same time to maintain the system described on page 22, which was an individualistic system of land tenure, whereby a farmer with full rights to his land might sell or grant away his rights and, in the event of his death, in the matter of inheritance, the strict laws of Moslem inheritance, and local customs in regard to family possession, both had influence ?

Mr. ORMSBY-GORE thought that it would be extremely difficult to apply the Land and Native Rights Ordinance in a district where such an individualistic system of land tenure obtained. He would, however, ask for information on the point.

M. van REES pointed out that the ordinance in question stated that all the land was controlled by the Governor for common use, and in the common interest. The system was therefore the same as that obtaining in Tanganyika, but in Nigeria the land was known as "native lands" instead of "public lands". Were the same explanations which Mr. Ormsby-Gore had furnished regarding Tanganyika to apply to Nigeria ?

Mr. ORMSBY-GORE said that the definition "native lands" was adopted in Nigeria for the purpose of referring to lands belonging to a particular tribe, and not to the country as a whole, whereas in Tanganyika, since the organisation was less complete, it had not been possible to apply the same definition universally.

Sir F. LUGARD thought that the term "native lands" had been used in order to imply trusteeship. He had introduced the conception before it had been embodied in the mandate system.

M. van REES asked that the next report should contain the full text of the Native Lands Acquisition Ordinance and the Crown Lands Ordinance, referred to on pages 55 and 56 of the report, should be sent to the Commission next year.

Mr. ORSMBY-GORE promised that this should be done and that information would be given as to what German ordinances were still in force and what Nigerian land legislation had been applied to the different parts of British Cameroons.

Public Finances.

Mr. ORSMBY-GORE handed to the Commission a table of complete estimates set out in the form which the Commission desired.

The CHAIRMAN said that public finances were divided in accordance with the administrative divisions. In the part of the Cameroons included in the northern provinces of Nigeria, insufficient figures and no tables had been given, while, with regard to the Emirate of Dikwa, it was stated that the revenues were divided between the native administration and the general administration in the proportion of three to one. It appeared that the expenditure on police amounted to £628, while that on education only amounted to £158, out of a total of £10,354.

In the parts of the Cameroons north and south of the Benué River, the budget was not shown under separate headings, neither in respect of revenue nor of expenditure.

The budget for the south province of the Cameroons was shown separately from that of Nigeria. The contribution of the Nigerian Government was £79,000, out of a total of £125,881. Of this, the expenditure on education amounted to £3,848, while that on police and prisons amounted to £12,547.

Mr. ORSMBY-GORE said that it was not possible to obtain complete information on the points raised by the Chairman in view of the administrative merging of those parts of the mandated territory, other than Cameroons province, in Nigeria.

As far as the portions of the British mandate area in the north were concerned, they were administered as integral parts of the northern provinces of Nigeria and no separate figures for revenue or expenditure could be furnished. As regards law, order and education, the preservation of law and order came before the education of children in the functions and duties of a government. In tropical Africa, education, as had formerly been the case in Great Britain, had to a large extent been left to private enterprise and to religious and philanthropic endeavour. A gradual change in this system was now in process.

Sir F. LUGARD noted that, in the Dikwa administration, the portion of the direct tax handed over to the native chief was 75 % of the total. Why was this proportion so large ? It was not more than 50 % in Nigeria.

In the southern provinces direct taxation had been introduced, but there was no mention of the amount of the incidence of the tax per head.

Mr. ORSMBY-GORE said that evidently a poll tax had been levied in the southern provinces and he would arrange that in the next year's report the amount and incidence of any such direct tax on natives would be separately stated.

The CHAIRMAN understood that it would be very difficult to give figures for indirect taxation. He did not think that this was the case with regard to direct taxation.

He wished to make the same recommendations as had been made in the case of the other mandated territories, that was to say, that the Commission desired to have the budget presented in comparative tables, to enable it to compare successive budgets, and that the expenditure on natives should be shown under separate headings.

Mr. ORMSBY-GORE promised that, where feasible, this should be done.

185. APPLICATION OF GENERAL CONVENTIONS TO THE MANDATED TERRITORIES.

The CHAIRMAN asked that a list of general conventions applicable to the neighbouring territories which extended also to the territory in question should be sent to the Commission.

186. REPLIES TO THE QUESTIONNAIRE.

Mr. ORMSBY-GORE asked whether the administrators were to be informed forthwith that they would be required next year to give specific answers to the Commission's questionnaire, or whether that questionnaire was to be altered in any way.

The CHAIRMAN said that the Commission had decided, with regard to the questionnaire, that Sir F. Lugard would be entrusted with the task of redrafting it, but that the Commission would not make any alteration for the next report. The Governments of the mandatory Powers were therefore asked to draw up their reports for next year on the existing questionnaire.

Mr. ORMSBY-GORE promised that the administrators should be instructed to send in their reports on the existing questionnaire, and added that he gathered that, in addition to the general narrative report, the Commission desired specific replies to each item of the questionnaire.

The CHAIRMAN, in thanking Mr. Ormsby-Gore for the explanations which he had given, desired to draw his attention to the general recommendations of the Commission.

The Commission desired to have a detailed map of the territory, a general summary of its administrative organisation, the text of the decrees published during the period covered by the report and information regarding the relations between the administration and the native authorities. Moreover, clear and precise replies to the questionnaire would greatly assist the Commission in its work.

The Chairman added that he hoped that it would be possible to have the report for the Cameroons by May 15th, 1924.

M. ORMSBY-GORE said that he would do his utmost to obtain the information for which the Commission had asked.

Mr. Ormsby-Gore withdrew.

187. LOANS, ADVANCES AND INVESTMENTS OF PRIVATE CAPITAL IN MANDATED TERRITORIES.

The Commission considered a draft resolution drawn up by Sir F. Lugard and M. d'Andrade.

After discussion, *the Commission agreed upon the general principles of the resolution, which would appear in its final form in the Commission's report.*

188. GENERAL REPORT OF THE COMMISSION TO THE COUNCIL.

The Commission decided that the report should be divided into two parts; the first should contain general observations on the mandated territories and special comments on individual reports of the mandatory Powers, and the second should deal with questions of principle, such as Crown property, recruiting of troops for service outside the territory, loans, extension of treaties, religious liberty, etc., which concerned mandated territories as a whole.

M. Rappard was requested to draft the first according to the Minutes, and M. Orts and Sir F. Lugard undertook to prepare the second.

189. Policy in regard to State Domain.

The Commission considered a note on State domain submitted by M. van Rees, who said that it was possible to add a further argument. The Articles of the Treaty of Versailles had been drafted by eminent legal experts and the Commission could therefore conclude that every word and expression to be found in them had been carefully weighed and considered. Article 120 laid down that all movable and immovable property in the former German Colonies, belonging to the German Empire or to any German State, should be passed to the Government exercising authority over those territories. It could not for an instant be maintained that this property had been handed over with full rights of ownership to a government, because a government could not be a legal owner. In law only a physical or legal person could be so described. No jurist could ever say that anything passed to the ownership of a government when he desired to say that it passed to the ownership of a State or Power.

M. Orts added that there was another argument of value. When at Versailles the Germans had demanded compensation for this property, the Allied Governments had replied that "the mandatory Powers, being appointed trustees for the League of Nations, would derive no benefit from this trusteeship".

The Commission decided to include the note in its report to the Council.

TWENTY-THIRD MEETING (Private)

held at Geneva on Friday, August 3rd, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar.

190. General Report of the Commission to the Council.

The Chairman asked whether the members of the Commission who had prepared memoranda desired to have these documents annexed to the report which the Commission would present to the Council.

After some discussion, *it was decided that all the memoranda should be annexed to the report. It was understood that the memoranda would be published over the name of the authors and on their own responsibility.*

191. Examination of the Report on the Administration of New Guinea in the presence of Sir Joseph Cook.

Sir Joseph Cook, accredited representative of the Australian Government, came to the table.

The Chairman noted that the report was addressed correctly to the League of Nations.

Native Immigration.

Sir F. Lugard asked whether, in view of the fact that the population of New Guinea was extremely sparse, only 2.5 per sq. mile, it would be possible for the Australian Government to consider a relaxation of the immigration laws in respect of natives.

Sir J. Cook said that one reason for limiting emigration from the adjacent countries was that it necessarily involved their depopulation to that extent. The population in the islands was everywhere stationary, and it was to the interest of the natives to keep the population in sufficient numbers within its original territory.

Sir F. Lugard understood that this legislation was in pursuance of the policy of keeping Australia for the white man. It was by no means his intention to criticise this policy, but he wondered whether New Guinea was not sufficiently distant to enable the Australian Government to dispense with it in this case.

Sir J. Cook said that the same laws were applied in Papua, and that it was not possible to apply them in one territory and not in the other.

Sir F. Lugard enquired whether the laws could not be relaxed in both cases.

Sir J. Cook said that it was the well-established and settled policy of his Government.

Ex-enemy Estates.

Sir F. Lugard enquired as to the position of the former German estates, which were privately owned. Had the Australian Government disposed of these estates? How many of them had been sold, and how many remained in the hands of the Government? Was it the intention of the Government to retain any of them under its own management?

Sir J. Cook replied that all the German estates had been expropriated, whether they had belonged to the German Government or to private owners. The Australian Government had, however, been able so far to dispose of very little of the property.

The Germans had been sent away because they made trouble for the authorities if they remained. They desired to have their property restored to them. This property, however, passed to the Australian Government under the mandate, and it was for the German Government to compensate its nationals. A few of the Germans had been allowed to stay, and there was a tribunal which decided individual cases on their merits. The Government had taken over the land, and had endeavoured without success to obtain offers for its purchase. Expenditure on the development and maintenance of these estates was responsible for a very large overdraft.

Sir F. Lugard enquired if there were any profits.

Sir J. Cook replied that there would not be any profit for some considerable time. These estates were a burden on the exchequer.

Sir F. Lugard asked into what fund the profits on these estates would be paid.

Sir J. Cook said that the proceeds of the sale of the estates after liquidation of the obligations which had been incurred would be accounted for in the reparations to which Australia was entitled.

Sir F. Lugard enquired how the tribunal to which Sir J. Cook had referred decided which of the German nationals should go or stay.

Sir J. Cook stated that the tribunal was a legal tribunal. Each case was decided on its merits. Some Germans had been in the island longer than others, and individual character and merit was taken into account.

The Chairman enquired whether the difficulty in selling ex-enemy property was due to any doubt as to the permanence of the mandate, or whether it was merely hesitation on the part of persons with capital to invest it in enterprises which were considered to be unremunerative.

Sir J. Cook did not think that the difficulty was due to the mandate system. It was simply that the properties did not as yet attract the investing public.

Sir F. Lugard enquired whether the Government was prepared to undertake the management of these estates indefinitely.

Sir J. Cook said that it was the intention of the Government to develop the property. It hoped that in time there might be some return. The property would be sold at the earliest possible moment. Meantime, the plantations were being maintained as going concerns, and would be sold as such.

Slavery.

Mr. Grimshaw noted that slavery still existed on the plantations in Talassa. He would be glad to have any information available as to the conditions and as to the steps taken to abolish it.

Sir J. Cook pointed out that most of the back country was undeveloped and unexplored. Conditions in the interior were not well known. Slavery would be abolished wherever it might be found. It was the policy of the Government, not only to do away with slavery, but to introduce voluntary conditions of labour throughout the territory. The truck system prevalent under German rule had, for example, been abolished, and the payment of natives was made in cash.

The Chairman quite understood that progress could only be achieved as civilisation penetrated the country.

Labour.

Mr. Grimshaw noted that there were disquieting statements in the report on the effects of the recruitment of labour on the decline of the population. He would like to have some further evidence on the effect upon the health of the workers of transferring them from one area to another.

Sir J. Cook said that, according to the experienced men on the spot, the effect upon the workers of accepting contracts for labour away from home was excellent. The men returned to their districts in better health and with the satisfaction of having increased both their resources and their prestige.

The Chairman, alluding to the decline of the population, enquired whether this population was declining in numbers or in physique.

Sir J. COOK said that the decline was in numbers. The natives made a practice of controlling the number of births. The Government was doing all it could to prevent it. The decline had nothing to do with the recruitment or with the conditions of labour. In this connection, he drew attention to paragraphs 151 and 152 of the report.

Mr. GRIMSHAW noted, in paragraph 204 of the report, that women were recruited for labour. This was the only case where the recruiting of female labour had been found in a mandated territory.

Sir J. COOK said that the practice of recruiting wives along with their husbands was excellent from every point of view. It was good for the morality of the natives, it helped to check the decline in population, and it was socially right.

Mr. GRIMSHAW agreed. The Commission had already expressed the view that wives should accompany their husbands. He pointed out, however, that it was only the case where the woman herself was indentured.

Sir J. COOK enquired how otherwise the women could go. It was the practice in nearly all civilised countries to engage married couples to work in the country. He thought that the practice should be encouraged in this case.

M. BEAU asked whether the labour in question was agricultural labour.

Sir J. COOK said that it was mostly or all work on the plantations.

Mr. GRIMSHAW said that he was not critising the practice. He would point out, however, that in Samoa the Chinese wives accompanying their husbands did not go as indentured labourers.

Sir J. COOK said there was no question of compulsion; it was a voluntary act carried out with the consent and approval of the authorities.

Mme. BUGGE-WICKSELL said that, if married women were allowed to sign, on it would certainly be better to do as the Government contemplated, making it a law that "if a married man was recruited, his wife and children must accompany him."

Sir J. COOK said that the women were not compulsorily indentured.

Mme. BUGGE-WICKSELL asked whether the results of the practice were invariably good Difficulties might result from a few women living among a great number of men.

Sir J. COOK said that all the men might bring their wives if they wished to do so.

Mme. BUGGE-WICKSELL enquired whether the married couples lived in compounds.

Sir J. COOK said that the married couples lived in separate houses.

Mme. BUGGE-WICKSELL asked if there was any protection for childbirth, and whether any regulations existed for the cessation of labour before and after the birth of the child.

Sir J. COOK did not remember at the moment. He thought that there were regulations, and would look them up.

Mme. BUGGE-WICKSELL enquired whether there was any overwork.

Sir J. COOK said that a native in New Guinea had charge of some five or six acres of plantation. In other countries, as in Samoa, natives had charge of plantations of twenty acres.

Mme BUGGE-WICKSELL asked whether the Commission might have some statistics as to childbirth and infant mortality on the plantations.

Sir J. COOK noted this request.

Mr. GRIMSHAW observed that, according to an ordinance in force in New Guinea, married women were not required to work four weeks before or after childbirth.

He enquired whether the recruitment of married women applied to labour recruited for work in Nauru. He observed that 69 labourers had been recruited last year. Were all these labourers men ?

Sir J. COOK said that, so far as he knew, no women had been sent. This labour was recruited for light work and not for the heavy work of mining.

Mr. GRIMSHAW drew attention to the plantations cultivated by the mission schools. According to paragraph 310 of the report, the area of these plantations amounted to 44,000 acres. There were 600 schools and a cultivated area of 15,000 acres. This seemed to be an excessive amount for the scholars to cultivate.

Sir J. COOK said that the Government interfered as little as possible with the missions. He believed that the missions on the whole did well by their children, and no doubt they were a great civilising force.

Arms Traffic.

Sir F. LUGARD said that there appeared to be a very large number of permits. Were these all granted to Europeans ?

Sir J. COOK said that in some cases permits might be granted to selected and approved natives. The report said that during the year no such permits had been granted.

Sir F. LUGARD asked whether there was a large number of percussion guns or flint-locks ? Was there any import of trade guns and trade powder, such as had been noted in Africa ?

Sir J. COOK did not think so. There was a small import of firearms, ammunition and explosives, but it was very little.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD asked whether there was any consumption of fermented drinks by the natives.

Sir J. COOK did not think that there was any considerable consumption, but the natives, no doubt, made their own local toddy, as every nation and race in the world did. The Government, however, was endeavouring to abolish this practice. Regulations existed on the subject, prohibiting a native from having in his possession any intoxicating liquor of any kind whatever.

Sir F. LUGARD noted that in paragraph 323 it was stated that there was no local manufacture of alcoholic liquors. This, as was evident from what Sir J. Cook had just said, must refer to spirits only and not to fermented drinks.

He enquired whether there was any smuggling of opium.

Sir J. COOK said that there were no imports except for medicinal purposes and practically no smuggling. There was no importation of opium for smoking.

Sir F. LUGARD enquired whether there was any local drug such as hemp.

Sir J. COOK said that he had no information on the subject.

Liberty of Conscience.

No observations.

Military Clauses.

No observations.

Economic Equality.

M. ORTS enquired whether the opportunity of purchasing ex-enemy property was reserved for ex-soldiers, as appeared to be indicated in the report.

Sir J. COOK said that this was not the case. The Government had been advertising these properties for sale recently in London, and had only received one tender.

The CHAIRMAN said that there had been rumours of discontent as regards the disposal of these properties. Were these rumours due merely to political agitation, or had there been irregularities in the procedure followed ? The Commission would like to know whether any importance should be attached to the criticisms which had been made.

Sir J. COOK said that these criticisms might be taken as being largely due to various kinds of propaganda. He knew of no just reason for criticising the method of dealing with expropriated properties. Was there any particular point which the Commission had in mind ?

The CHAIRMAN said that there was no concrete case before the Commission, nor did the Commission intend to imply any criticism. Criticism, however, had been made of the Government, according to debates which had taken place in the Australian Parliament and according to certain articles and letters in the Press. The complaints were to the effect that there had been favouritism and irregularity in the sale and allocation of these ex-enemy properties.

Sir F. LUGARD said that it was recently stated in the *Times* that the Commonwealth Prime Minister was sending a Committee of investigation to New Guinea, and there was therefore presumably some matter for enquiry.

Sir J. COOK said that this investigation was in consequence of reports that there had been flogging of the natives. The Australian Government invariably made an enquiry whenever statements of this kind were made by responsible people. The fact that an enquiry was being made did not imply that the Government believed the allegations. The Government had appointed a firm of accountants to investigate the transaction of the Expropriation Board.

Sir F. LUGARD enquired whether the Commission might have a report on the results of the enquiry.

Sir J. COOK noted this request. He was informed that the rumours in question had arisen from conversations with discontented people on the spot, perhaps with the Germans who remained in the country.

Sir. F. LUGARD, referring to paragraphs 173 and 388 of the report, noted that in April 1921 a trade agency had been established in Sydney by the Commonwealth Government to purchase supplies for the Administration and Expropriation Board, and to sell copra and other produce on behalf of the Board, and also to purchase supplies for the Administration in Nauru. In the first year the Agency had earned a profit of £12,628 7s. 8d., which had been paid to the revenue of the Commonwealth. He would like to know what was the nature of this agency, and whether the mandatory Power felt itself justified in receiving the profits which had accrued.

Sir J. COOK said that the profits in question had been paid into the consolidated revenue of the Commonwealth. The Commonwealth received no contributions or return of any kind from the mandated territory, although it paid large sums for public purposes in the territory. It considered it only fair to set the small profit against the expenditure which had been incurred on behalf of the mandated territory. The Commonwealth paid, for instance, £45,000 a year in subsidies to the mail service alone.

Sir F. LUGARD said that the Commission desired to keep intact the principle that the mandatory Power should not derive any profit from the mandated territory. Would it not be better to credit the profit in question to the local revenue, and proportionately to reduce the grant in aid? It was merely a question of book-keeping, but the principle would thus be saved.

Sir J. COOK said that he would note this question, and obtain further details. He would point out that there was no profit from the territory. If the Government agency were not there, a private agency would do the business. The profit might be regarded as a compensation for services rendered to the natives.

The CHAIRMAN said that this question should really have been brought up under the heading of public finances. It was really a question of accountancy. This was a profit for the account of the local budget, but it had actually been paid into the Commonwealth fund. Was not this contrary to the spirit of disinterestedness which was the principal characteristic of the mandate ? In this case the mandatory State had created in the territory entrusted to it a Government enterprise of an industrial and commercial character, the profits of which were being paid into the central treasury of the mandatory State.

Sir J. COOK said that this agency was not in the territory but in Sydney, which was 2,000 miles from New Guinea. It had been set up by the Commonwealth Government to handle products coming from the territory and to make all purchases going to it. It would probably be found, on investigation, that there were charges to be set against the profits shown in the report.

M. BEAU enquired whether the agency had a monopoly.

Sir J. COOK did not think so. Private traders might compete with the Agency, although it might not be worth their while to do so.

M. BEAU presumed that there was a monopoly *de facto* and not *de jure*. Did the agency pay customs duties for its imports ?

Sir J. COOK did not remember this point. He would try to obtain for the Commission a balance sheet showing what the administration of the mandated territories cost the consolidated revenue. This would have to be set against the profit shown. The Australian Government maintained many kinds of services out of its revenues for the benefit of the islands.

The CHAIRMAN pointed out that in all cases the mandates involved expenditure for the mandatory government. The mandatory governments had in fact accepted the mandates because they were in a position to develop the territory in accordance with the spirit of the mandate.

Sir J. COOK enquired whether it was the view of the Commission that the mandatory Power must necessarily incur losses upon its administration.

The CHAIRMAN observed that all colonies had begun by being a burden on the mother country. The Commission had to secure respect for the spirit of the mandate, according to which the mandatory Power should not draw any direct profit from the mandated territory.

Sir J. COOK pointed out that, in order to estimate profit, it was first of all necessary to take account of the losses involved. The Australian Government had to guarantee an overdraft of a million sterling. It also expended £43,000 a year on the maintenance of services. There would also be other charges to bring into the equation before any profit could be fairly shown.

M. ORTS said that the Commission tended to think that sums paid by the mandatory Power in order to balance the annual budget should constitute an ordinary cost of the mandate.

The CHAIRMAN said that he would put a direct question. Was the £12,000 under discussion regarded as receipts to be entered into the local budget.

Sir J. COOK replied that the report stated that it was paid into the Commonwealth revenue.

The CHAIRMAN enquired whether these profits, being made on the spot, should not be entered against the costs incurred for account of the mandated territory. The mandatory Government might on some future occasion claim to have spent a certain sum of money on the mandated territory. The Commission should then be able to point out that from this sum there should be deducted all the profits made on the spot.

Sir J. COOK pointed out that the trade agency in question was not on the spot but was set up merely to deal with imports and exports with a view to making a profit. It purchased a large share of the imports and supplies for that territory, which were valued at £400,000, and sold £500,000 worth of exports. No private company could have done this for the same return. What had been done was therefore in the interests of the territory.

The CHAIRMAN asked whether the question of equality of commerce was not involved. If the Australian Government entered into business, it was not on the same footing as a private individual since the Government did not pay taxes and might enjoy other facilities. Generally speaking, it would tend to be in a much more favourable position from the competitive point of view.

Sir J. COOK said that the point had little practical importance because the profits went into the consolidated revenue which was responsible for the mandated territory and all its obligations.

The CHAIRMAN said that he was not contending that there was a monopoly, but merely that the Government was in a more favourable position than any other person.

Sir J. COOK said that there was nothing to prevent a private firm going into business, and setting up an agency at Sydney. The profits of the agency were infinitesimal. Last year the agency made a profit of £12,000 on a turnover of £800,000. Such an enterprise could hardly be said to attack the principle of economic equality.

He would, however, note the observations which had been made, and suggest that the form in which the accounts were presented should be changed.

The CHAIRMAN said that there had been no idea of criticising the action of the mandatory Government. The views which had been expressed were not those of the Commission, but of the Allied Powers when they allocated the mandate. He would quote in this connection a passage from the reply from the Allied Powers to the German Government:—

> "They are of opinion that the Colonies should not bear any portion of the German debt, nor remain under any obligation to refund to Germany the expenses incurred by the Imperial administration of the Protectorate. In fact, they consider that it would be unjust to burden the natives with expenditure which appears to have been incurred in Germany's own interest, and that it would be no less unjust to make this responsibility rest upon the Mandatory Powers which, in so far as they may be appointed Trustees by the League of Nations, will derive no benefit from such Trusteeship."

Sir J. COOK said that the principle there laid down was entirely clear. He had already told the Commission that the mandatory Government had an obligation of over £100,000 in two sums alone to set against a small profit of £12,000.

The CHAIRMAN again assured Sir J. Cook that the Commission had no critical intention. It merely desired to safeguard a principle, and was happy to receive the cooperation of the accredited representatives of the mandatory Powers in endeavouring to arrive at an exact interpretation of the Treaty.

Education.

Mme. BUGGE WICKSELL noted that education was at present in its infancy, and that there was, accordingly, not very much information yet available.

Three schools had been set up in 1922 with first class equipment. It was, however, impossible to find any record of expenditure on these schools. The only figure was to be found on page 89, according to which, up to June 30th, 1922, the expenditure amounted to 11 guineas.

Sir J. Cook said that these schools had probably only just been erected, and hat not at the time of this report come on to the budget. He would make enquiries.

Mme. Bugge Wicksell pointed out that one of the schools erected was a domestic school, but, apparently, the only woman attending the school was the mistress. It turned out about 30 pupils each year trained in cooking and laundry work, but they all seemed to be boys.

Sir J. Cook said he would inquire into the matter.

Land Tenure.

M. van Rees assumed from what Sir J. Cook had already stated that all German property, whether private property, or state property, had passed into the possession of the mandatory Power as "Crown land". He found, on referring to Article 6 of the Lands Ordinances of 1922, page 210, a list of various kinds of land recognised as having passed into the possession of the Commonwealth. Article 4 of this Ordinance contained a definition of "Crown land". He would like to ask whether the land belonging to the German State had been transferred to the mandatory State under this ordinance, so that the mandatory State had become the proprietor of these lands.

Sir J. Cook answered in the affirmative.

M. van Rees noted that Article 11 of the Lands Ordinances gave to the Administrator the power to declare by proclamation that any land which had never been alienated by the Crown, and of which there appeared to be no owner, should become Crown land. The question arose whether the Administrator, if he wished to dispose of land, would need first of all to declare this land to be Crown land before disposing of it in favour of a third party. If, in this case, there were a claim put forward by a native, was the administrator competent to decide, or was there any other power above the administrator to give judgment upon this claim ?

Sir J. Cook said that the legal tribunals would finally decide all these points.

M. van Rees said that he could not find in these Lands Ordinances any definition of the word "native". Did the term include natives who entered the territory from elsewhere, or was it confined to indigenous natives ?

Sir J. Cook thought that the term meant natives of the territory.

M. van Rees, referring to Article 6 of the Lands Ordinances, said that, subject to certain exceptions, the native had no power to dispose of, or to alienate any land.

Sir J. Cook said that this was to prevent the natives being exploited by any other private individual. It was provided that he must get the consent of the Administrator to any contract which he was proposing to make.

M. van Rees said that Article 6 appeared to indicate that the native could not alienate his land, even with the consent of the Administrator, except in certain cases.

Sir J. Cook pointed out that Article 6 must be interpreted in the light of the subsequent provisions of the Ordinance.

The policy of the Administrator was to preserve these native lands to the native, and to prevent any trafficking in them. The regulations were intended as a safeguard. Everything must be referred to the Administrator.

Much the same regulations were in force in New Guinea as in Papua, and the same general principle was applied, namely, that, in cases of doubt, the question should be settled in the interests of the native.

M. van Rees said that this protection was to be found in most ordinances, but in New Guinea the ordinance appeared to go further, and alienation, even with the approval of the administrator was only granted in certain cases. He was not referring to the lands mentioned in Article 7 "acquired under a will, etc.", which might be alienated, subject to the approval of the Administrator, but to lands belonging to the natives from time immemorial. It appeared that such land could not be alienated at all. Was there any special reason for going to this length ?

Sir J. Cook drew attention to Article 8.

> "(1) If the native owners are willing to dispose of any land, the Administrator may, out of funds provided for the purpose, purchase or lease it upon such terms as may be agreed upon between him and the owners.

"(2) No purchase or lease of any land shall be made by the Administrator until he is satisfied after reasonable enquiry that the land is not required or likely to be required by the owners."

The Administrator merely claimed that he should have first right, acting as trustee for the whole territory, to purchase these alienated lands.

Native Tribunals.

Sir F. LUGARD said that there was not much information in the report regarding the establishment and the conduct of purely native tribunals. Were there any such tribunals, or was it intended to establish them ?

Sir J. COOK replied that the policy of the Government was to adhere as far as possible to the customs of the natives. An attempt was being made to improve the native tribunals, and to appoint approved natives. There would always be an appeal, if necessary, from the native tribunals to the local tribunals of the territory.

Sir F. LUGARD wished to have some information with regard to village councils.

Sir J. COOK referred to paragraph 167 on page 40 of the report, where it was stated that the Luluais and Tultuls had been continued by the Australian Administration.

Sir F. LUGARD enquired as to the secret societies. He would like to have further information on this subject.

Sir J. COOK noted this request.

Public Finance.

The CHAIRMAN stated that the Committee would like to have a comparative table showing for each item the figures for the previous year and of the current year, and the estimates for the year following.

The Commission would also like to have a separate account of the expenditure on native administration and welfare.

Sir J. COOK noted this request. He agreed that it would be well to show the native expenditure separately if it were possible. He could not quite see, however, how it could be done.

Loans for the Mandated Territory.

The CHAIRMAN said that he would now put to Sir J. Cook, on behalf of the Commission, a number of questions which had no special bearing on the report under consideration, but which were of general interest for the system of mandates.

What were the views of the Australian Government on the legal consequences of the granting of loans or advances to the mandated territory for public works, with or without security?

Sir J. COOK said that it was the rule with the Australian Government in these matters not legally to bind itself to any special security for such loans, although an indication of their purpose was given. All loans were in the last resort secured on the consolidated revenue.

The CHAIRMAN said that he would put a concrete case. Suppose it were decided to construct a large railway in New Guinea. A loan would be required, and public subscribers to the loan would wish to know how it was guaranteed. There might be either a simple guarantee of the mandatory State, or the loan might be guaranteed on the security of the Customs revenue or on certain monopolies, etc. If the loan were merely guaranteed by the State, what would happen in the event of the mandatory State surrendering its mandate ?

There was another question. Would it not be advisable for the mandatory Power to come to an agreement with the League of Nations before issuing a loan ?

Sir J. COOK did not think that it would be necessary to consult the League of Nations. The treaty laid down that such administrative matters should be dealt with under the laws of the mandatory. A loan for the development of New Guinea would be raised in the same way as loans were raised for Australia, *i.e.*, on the security of the consolidated revenue.

The CHAIRMAN again asked what would happen in the event of the mandatory Power surrendering its mandate.

Sir J. COOK said that Australia did not intend to surrender its mandate ,but that if such a hypothetical question must be answered, it would be a matter for arrangement between the mandatory Power and its successor, which would both be under obligation to conserve the interests of the bondholder.

The CHAIRMAN pointed out that the transfer of the mandate would not be an ordinary business transaction, as the expenditure in question had been undertaken by a trustee.

Sir J. COOK said that a trustee floating a loan, and making himself responsible would be under an obligation to see that the people to whom he had given his guarantee were treated fairly and equitably.

Application of International Treaties to Mandated Territories.

The CHAIRMAN asked whether Sir J. Cook was of the opinion that all conventions signed by the mandatory Powers with another Power should be extended to the territories under mandate.

Sir J. COOK said that they should be extended so far as they applied and were considered to be appropriate. A convention entered into by Australia with another country might not apply in all its detail to the mandated territory.

Sir F. LUGARD said that the point at issue was to secure for the mandated territories the option of the most-favoured-nation clause. Some Powers had excluded territories from the benefits of this clause.

Sir J. COOK thought that, whenever possible, such benefits should be extended to the mandated territory. This, however, would depend on local circumstances.

Sir F. LUGARD thought that this question was a matter for the Council or the Assembly, which might definitely decide whether the status of a mandatory should be considered as equivalent to that of a colony or protectorate.

Sir J. COOK said that obviously each case would have to be determined on its merits. A system applied to West Africa would not necessarily apply to New Guinea.

192. DATE OF THE NEXT SESSION OF THE COMMISSION.

The CHAIRMAN asked whether it would be possible for the report on New Guinea to reach the Commission before May 15th. The Commission hoped to be able to meet earlier next year.

Sir J. COOK said that the administrative year did not end until June 30th. A report, however, could be prepared if events were anticipated.

The CHAIRMAN thanked Sir J. Cook for the explanations which he had given to the Commission, and asked him to express to the Australian Prime Minister the gratitude of the Commission for the interesting report which it had presented.

Sir J. COOK said that he would notify to the Government of Australia the points which had been raised by the Commission, and recommend that the suggestions of the Commission should, as far as possible, be followed.

TWENTY-FOURTH MEETING (Private)

held at Geneva on Friday, August 3rd, 1923, at 3.30 p.m.

Present: All the members of the Commission except the Count de Ballobar.

Sir James ALLEN, accredited representative of the Government of New Zealand, attended the meeting.

193. EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF WESTERN SAMOA IN THE PRESENCE OF SIR JAMES ALLEN.

The CHAIRMAN welcomed Sir J. Allen, and hoped that it would be possible for him to furnish the necessary explanations, which the Commission requested in the interests of the natives, and in pursuance of the terms of the mandate. He wished to point out that there were two texts of the report, and that some members had received one and some the other.

Sir J. ALLEN said that he had just received the report for 1922-23, which unfortunately had not arrived in time to be circulated to the members of the Commission.

The CHAIRMAN pointed out that the report was addressed to the Prime Minister by the Administrator of the mandated territory. The League of Nations should be notified by a covering letter from the Prime Minister, showing that the report was in effect from the Government of the mandatory Power and that it took responsibility for it.

Sir J. ALLEN said that the Prime Minister of New Zealand had expressed his approval of the Administrator's report.

In reply to M. Rappard, he stated that there would be no difficulty in forwarding 100 copies instead of 20 copies, so that all the States Members of the League should receive it in addition to the members of the Mandates Commission.

At the request of the CHAIRMAN, M. RAPPARD explained that it was anticipated that the next session of the Commission would be held on June 15th, 1924. He enquired whether it would be possible to have the report on Samoa by May 15th.

Sir J. ALLEN said the financial year ended on March 31st and that it would only be possible, therefore, to submit the report for the preceding year by May 15th.

General Administration.

Sir F. LUGARD enquired if a copy of the pamphlet containing the "Duties of Officials", referred to on page 36 of the report, could be sent to the Commission.

Sir J. ALLEN said that 15 copies would be sent.

The CHAIRMAN enquired whether there was an official Gazette. The Commission desired to receive full copies of all legislation concerning natives. In any case, it wished to have annexed to the report the text of laws or acts of the Government promulgated by the report itself.

Sir J. ALLEN said that the public ordinances were collected, and that a copy had been forwarded to the Mandates Commission.

Sir F. LUGARD observed that the report last year made mention of the intention to introduce a legislative council. Was that still the intention of the mandatory Power ?

Sir J. ALLEN replied that the legislative council was already in existence, and was composed of official and non-official members. It was intended that, as soon as possible, non-official members should be elected.

M. van REES enquired whether Western Samoa possessed administrative and financial autonomy.

Sir J. ALLEN said that it possessed a legislative council, which was empowered to deal with certain questions. Some of the laws relating to various questions were still promulgated by the New Zealand Government.

The interests of the natives were, however, fully protected, since two of their chiefs acted in an advisory capacity to the Administrator on all native questions. The development of autonomy in the country would be progressive.

M. van REES enquired whether Samoa possessed financial autonomy.

Sir J. ALLEN replied that financial autonomy was almost complete, and that the deficit in the budget had been paid by the New Zealand Government, which had provided £16,000 each year for the last two years.

With regard to public works, £125,000 had been advanced, of which £25,000 was a gift, while £100,000 was in the form of a loan bearing interest at the rate of 5%.

The CHAIRMAN wished to put a general question applicable to all mandated territories regarding loans. The case which he desired to put forward was purely an abstract one. When public works had to be constructed in a mandated territory, it was frequently impossible for the mandated territory to find means to pay for them on its own budget. What was the procedure necessary ? Did the Government of the mandatory Power think itself justified in raising a loan, with or without security, without referring the matter to the League of Nations ? In the event of the termination of a mandate, what was the position of the mandatory Power which had guaranteed a loan for the benefit of its mandated territory ? There were three interests involved — those of the mandatory Power, those of the shareholders, and those of the mandated territory itself.

Sir J. ALLEN said that the New Zealand Government's action regarding the loan to Samoa could not be taken as establishing a general rule. Its action had been a generous one because the Samoans were allied to the Maoris, the natives of New Zealand.

If a mandated territory desired to secure money for the erection of public works, it would be the right of that mandatory Power to say whether or no it was prepared to guarantee a loan. It would depend on circumstances. Some mandatory Powers might maintain that the League of Nations should guarantee the loan. If the mandate changed hands, difficulties would arise with the bondholders. The whole problem would probably not arise in connection with "C" mandates, but might arise with the others.

M. van REES enquired in what light the mandatory Power regarded the advances made for public works, or the expenditure covering the deficit in the budget of the mandated territory. Did it consider these advances to be recoverable ?

Sir J. ALLEN said that there was nothing in the terms of the mandate to make the mandatory Powers pay for the mandated territory. He thought that the mandated territories ought to pay for themselves. The advances made by the New Zealand Government to Samoa coud not be regarded as a precedent. If the mandated territory become involved in financial difficulties, it would either have to reduce expenditure, or to increase taxation. The mandatory Power should be allowed to decide for itself regarding the question of advances made to its mandated territory.

The CHAIRMAN enquired whether, in Sir J. Allen's opinion, the advances made by the mandatory Power to cover the deficit in the budget of a mandated territory should be regarded by the mandatory Power as part of its duties under the mandate or as expenditure which would one day be recoverable.

Sir J. ALLEN replied that, in his opinion, if a mandatory Power chose to make an advance to its mandated territory, it had the right to expect to be repaid. He pointed out that mandated territory should in all cases show itself capable of paying the interest, and meeting the sinking fund on the loan.

M. d'ANDRADE said that it was nearly impossible for a colony or a mandated territory to develop by means of its own resources. It required help from outside, especially at the start. Mandatory Powers, when they assumed their mandates, had been well aware of this. New Zealand had now floated a loan for Samoa bearing 5% interest, a loan of which he, personally, entirely approved. Might it not happen, however, that the resources of mandated territory might be insufficient to repay a loan ? Further, in that case, what would happen if the mandatory Power lent the mandated territory further sums until it became heavily burdened with debt, and then refused to continue to exercise the mandate ? Would there not be a risk that it would annex the territory altogether in lieu of payment ?

Sir J. ALLEN said that, so far as Samoa was concerned, there was every expectation that it would be able to pay its debt. The general question raised by M. d'Andrade involved considerations of annexation. It was very much to be doubted, however, whether a mandatory Power would ever lend money to a mandated territory without a good prospect of repayment.

The Commission was most rightly anxious to see that a mandatory Power made no profit out of the mandated territory. On the other hand, this meant that it was forced to be all the more careful in assuming high financial charges in respect of such territory.

The CHAIRMAN said that the spirit of the Covenant was that the mandatory Power should obtain no direct financial profit from a mandated territory. That did not, however, imply that, little by little, as that territory developed, the mandatory Power might not receive many indirect advantages as a result of its position.

Sir J. ALLEN replied that this would be the case with regard to C mandates, where the mandatory Power received advantages in respect of tariff dues. In the case of territories under A and B mandates, however, their trade was open to all Members of the League. No special advantage could, therefore, be expected to accrue to the mandatory Power.

M. d'ANDRADE thought that, as a general rule, a mandatory Power should not grant loans to a mandated territory without asking the opinion of the League of Nations.

Sir J. ALLEN said that, provided the League of Nations would take responsibility for the loan, this rule might well be followed, but he doubted the wisdom of such procedure.

Labour.

Mr. GRIMSHAW, referring to page 30, answer to question 3 (*a*):

> "By what other provisions is free labour protected ?" —
> "Labour has the same protection that similar labour enjoys in the Dominion of New Zealand." —

enquired whether the provision in question applied to all workers in Samoa, or only to the white population.

Sir J. ALLEN replied that the same answer appeared in the third report, and that, generally speaking, all the New Zealand provisions protecting free labour applied in Samoa. There were special provisions regarding Chinese labour.

Mr. GRIMSHAW, referring to page 20 of the report, enquired whether the imposition of "standard tasks" encountered opposition among the labourers.

Sir J. ALLEN said that the Chinese labour contract was for three years at so much a day. It had been found that many Chinese preferred to have a definite task allotted to them every day, and be free when they had completed it. This system was allowed where individuals desired it, but was not compulsory. It was becoming more and more prevalent. The amount of the task was fixed between the employer and the labourer, and both had the right of appeal to the Chinese Commissioner.

Mr. GRIMSHAW enquired what were the duties of the trained officer from Hong-Kong who had been sent to Samoa. Were they similar to those of the official employed in Singapore in protecting Chinese labour ?

Sir J. ALLEN said that this official had been lent by the Government of Hong-Kong to aid the Chinese Commissioner for 12 months. He had now left Samoa.

Sir F. LUGARD enquired if there was any labour recruiting in Hong-Kong for Samoa.

Sir J. ALLEN said that recruiting was done through the Hong-Kong Government and on the same lines as recruiting for Borneo.

All contracts were signed on arrival in Samoa, and the Chinese Commissioner and Consul assisted at the signing of the contract.

In reply to a question from Mr. GRIMSHAW, Sir J. ALLEN explained that an endeavour had been made to get the wives of Chinese labourers to come out to Samoa, but so far only one official's wife had come.

The Chinese Commissioner had made no complaint regarding the treatment of Chinese labourers.

Mr. GRIMSHAW enquired whether it was possible to use the fact that an indentured labourer had got into debt in order to prolong the contract of that labourer.

Sir J. ALLEN said that this was impossible. The Chinese Commissioner had the right to examine the pay sheets every month; it was, therefore, impossible for an employer to put forward debt as a reason for prolonging the labourer's contract.

In reply to further question, Sir J. ALLEN said that a few Chinese had remained as settlers under the arrangements made during the war. The first contracts for three years had not yet expired however, and, therefore, it could not be said with certainty how many Chinese would settle in Samoa. The general policy was, however, to send them back to China.

Arms Traffic.

No observations.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD enquired whether the total prohibition imposed in Samoa had proved a success.

Sir J. ALLEN replied that its unpopularity was less than formerly. A certain amount of native brewing took place in the Bush from pineapples, etc. The Government had proceeded against it and it was on the decrease. He read the following extract from the report for 1922-1923:

> "Smuggled liquor is scarce and dear — as high as £5 per bottle. 'Home brew' is difficult to stamp out, but the severe sentences are having a salutary effect, and the sale of such liquor is kept in small compass. In all, four cases of smuggling were taken to Court, two for liquor, and two for opium. All were successful."

In reply to a further question, Sir J. ALLEN said that some little difficulty had arisen in connection with the smuggling of opium.

Economic Equality.

No observations.

Education.

Mme. BUGGE-WICKSELL thanked Sir J. Allen for the very full information supplied, which had been most useful and interesting. The system in Samoa apparently was excellent, and the attendance in the schools seemed to amount to 100% of the children of school age. She enquired what was the meaning of "outside examinations".

Sir J. ALLEN said that full replies to these and other questions were to be found in the report for 1922-1923.

Mme. BUGGE-WICKSELL enquired whether any inspections of schools were carried out.

Sir J. ALLEN replied that there were two travelling inspectors.

Public Health.

M. RAPPARD read the part of the report of the Count de Ballobar dealing with this question in Samoa.

Sir J. ALLEN said that the report for 1922-1923 gave full details on this subject.

Land Tenure.

M. van REES referred to the passage on page 35 of the report where it was stated that Crown lands were composed of landed property belonging to the former German Government and of land expropriated from Germans, and asked whether this meant German State lands which had passed to the mandatory Power and become Crown lands in the sense that such Power was the owner. Were there any unoccupied lands among the lands ?

Sir J. ALLEN replied that nearly all the ex-German property which had been under cultivation was still cultivated, producing cocoa, copra and rubber. All Crown land and all property of the German Government had been transferred to the mandatory Power in trust for the mandated territory. Only a very small area of the land had been German Crown land.

M. van REES referred to Act 280 of the Samoa Act of 1921, where it was provided that native land could be leased for a period not exceeding 40 years, but that this exception must be taken to mean that it was the Administrator of the territory who acted for the owner, in which case the rents and other profits of the land would be received by the Crown in trust for the owner, whether these rents were paid to the owner, or held in trust for him by the Administrator.

Sir J. ALLEN replied that he believed that they were paid to the owner, but he promised to make full enquiries on this point.

Moral, Social and Material Welfare.

No observations.

Budget.

The CHAIRMAN enquired whether the budget of Samoa was a separate one.

Sir J. ALLEN replied in the affirmative.

The CHAIRMAN pointed out that the sum expended on education (£5,236) did not appear to be a large one, especially when it was remembered that the taxes paid by the natives amounted to nearly £9,000.

Sir J. ALLEN said that in the subsequent budget the sum of £6,843 had been set aside for education, and the amount spent under this heading would continue to increase.

The CHAIRMAN, on behalf of the Commission, asked if comparative figures could be supplied in the future, in order to enable the Commission to make comparisons with previous budgets; that each item should be shown separately, and that expenditure on the natives should be placed under separate headings.

In reply to Sir F. Lugard, Sir J. ALLEN promised to submit at the next session a full and detailed statement regarding the items "Loan Account", "Unallocated Stores" and the "New Zealand Treasury Settling Account" referred to on page 29.

Sir F. LUGARD enquired whether the Chinese paid taxes.

Sir J. ALLEN replied in the negative.

M. YANAGHITA referred to the demographic statistics on page 37 of the report, and asked whether the 800 Samoans shown as having immigrated were all natives of Samoa, or whether the figures were intended to cover other inhabitants of the islands.

Sir J. ALLEN explained that these figures covered a shifting population, which was constantly on the move round about the islands.

The CHAIRMAN, on behalf of the Commission, asked that it should be supplied with a detailed map of the mandated territory, a statement on the Administration, and an account of that administration's relations with the native authorities.

194. APPLICATION OF CONVENTIONS TO THE MANDATED TERRITORY.

The CHAIRMAN enquired whether Sir J. Allen thought that conventions applying to the neighbouring countries could be applied to the mandated territory.

At the request of the Chairman, M. RAPPARD explained that the Commission was anxious to ensure for a mandated territory all the benefits enjoyed by the other colonies and by the mandatory Power itself. If these benefits were not extended to a mandated territory, it would be handicapped as compared with the other territories belonging to the mandatory Power. The Commission would suggest to the Council that a definite request should be formulated to the Powers that they should accord the same benefits to all mandated territories as were enjoyed by the colonies and protectorates of the Mandatory.

Sir J. ALLEN thought that it would be unwise to lay down a general principle. The circumstances of an individual case would have to be taken into account.

M. RAPPARD explained that the Commission had specially in mind benefits accruing from bilateral conventions, such as commercial treaties and tariff conventions.

Sir J. ALLEN thought that there would be no difficulty with regard to tariff conventions.

Sir F. LUGARD explained that a case had occurred in which a country had been denied the enjoyment of the most-favoured-nation clause, which it had formerly enjoyed under German rule, owing tp the fact that it now had become mandated territory.

The CHAIRMAN thanked Sir J. Allen for the assistance which he had given to the Commission.

195. EXAMINATION OF THE REPORT ON THE ADMINISTRATION OF THE ISLAND OF NAURU IN THE PRESENCE OF SIR JOSEPH COOK, SIR JAMES ALLEN AND MR. ORMSBY-GORE.

The CHAIRMAN said that, in accordance with the terms of the letter received by the Secretary-General, Sir J. Cook was the representative accredited to the League to give explanations regarding the administration of the Island of Nauru.

Mr. ORMSBY-GORE said that, as a result of telegrams exchanged between the British Government, the Commonwealth Government and the Government of New Zealand, it had been decided that, when the Nauru Mandate came up for discussion, the representative of the Government acting as Mandatory, that was to say Australia, should be the accredited representative appointed to

answer any questions in connection with the report In view, however, of the agreement whereby the functions of a mandatory Power might conceivably be exercised alternatively either by New Zealand or Great Britain, it had also been decided that the representatives of the British and New Zealand Governments should be present at the same time. The constitutional question how Australia came to be the mandatory Power had been settled by an agreement which had been signed on May 30th, 1923, which made the position quite clear with regard to the responsibility for the exercise of the mandate.

Sir J. COOK said that in this respect the representatives of the three Powers might be regarded as a trinity in unity. He represented the British Empire for the simple reason that Australia had been selected by the three sections of the mandatory Power to govern the island of Nauru.

Last year some confusion had existed in the minds of the Commission as to the functions of the Nauru Phosphate Company, and on the question how for the exercise of those functions impinged upon the functions of the administrator. This question, however, had now been made clear by an agreement signed between the three sections of the mandatory Power, in which it was laid down that:—

> "All ordinances made by the Administrator shall be subject to confirmation or disallowance in the name of His Majesty, whose pleasure in respect of such confirmation or disallowance shall be signified by one of His Majesty's principal Secretaries of State, or by the Governor-General of the Commonwealth of Australia, acting on the advice of the Federal Executive Council of the Commonwealth, or by the Governor-General of the Dominion of New Zealand acting on the advice of the Executive Council of the Dominion, according as the Administrator shall have been appointed by His Majesty's Government in London, or by the Government of the Commonwealth of Australia, or by the Government of the Dominion of New Zealand, as the case may be."

The CHAIRMAN, on behalf of the Commission, took note of the statement made by Sir J. Cook

General Observations.

Sir F. LUGARD, referring to page 24 of the report, noted that there were two courts in the island, a district court and a central court, both of which were presided over by the Administrator. The right of appeal was allowed from one court to another, and the central court possessed the power of life and death.

Sir J. COOK explained that the district court was composed of the Administrator alone, whereas in the appeal court he was associated with two other persons. It, therefore, resulted from Section 8 of Ordinance 9 of 1922 that the appeal was made from a court consisting of one person to a court consisting of three persons.

With regard to criminal cases, the Administrator had the duty of reporting all proceedings to the mandatory Government before the sentence of execution was carried out. The power of life and death really resided in the executive Government, which had power to set aside the sentence if it thought fit.

Labour.

Mr. GRIMSHAW referred to Ordinance 18 of 1922, mentioned on page 30 of the report, governing the employment of Chinese and native labour. He wished to know in virtue of what powers the Administrator of the island had promulgated this ordinance.

Mr. ORMSBY-GORE said that the Administrator exercised his authority by virtue of letters patent under the Privy Seal.

Sir J. COOK said that in any case the terms of the Administrator's appointment made his powers quite clear. Article 1 of the agreement between the British Government, the Commonwealth Government and the New Zealand Government, dated July 2nd, 1919, stated that the administration of the island should be vested in an Administrator who should be appointed for a term of five years, and should have the power to make ordinances for the maintenance of peace, order and good government of the island, subject to the terms of the agreement, to provide for the education of the children on the island, and to establish and appoint courts and magistrates with civil and criminal jurisdiction.

Mr. GRIMSHAW enquired whether the ordinance concerning Chinese native labour had been promulgated in Chinese and in the native language. Was it well known to the inhabitants ?

Sir J. COOK promised to obtain information on this point.

Mr. GRIMSHAW noted that all labour contracts had to be approved by the Commissioner. Was there a general form of contract ?

Sir J. COOK replied in the affirmative. The contract was signed in Nauru in the presence of the Administrator, and not in China. He promised to attach a copy of the contract to the next report.

Sir F. LUGARD enquired who recruited Chinese labour. Did the authorities in Nauru employ the machinery used in Hong-Kong ?

Sir J. COOK said he would make enquiries into the matter.

Sir F. LUGARD suggested that this procedure should be adopted if it had not already been followed, and observed that the form of contract used by the Government of Samoa formed a good model.

Arms Traffic.

No observations.

Trade in and Manufacture of Alcohol and Drugs.

Sir F. LUGARD enquired whether any smuggling of opium or of other drugs took place.

Sir J. COOK said that much the same provisions applied in the case of opium and other drugs as applied in New Guinea, that was to say, none was allowed except for medicinal purposes. All licenses were registered. No smuggling had up to the present been detected.

Education.

Mme. BUGGE-WICKSELL desired to see the general curriculum in mission schools included in the next report.

Sir J. COOK said that the regulations in Nauru were somewhat similar to those obtaining in New Guinea. He promised that the curricula in the various schools should be communicated to the Commission.

Public Health.

M. RAPPARD read the part of Count de Ballobar's report which dealt with public health. (Annex 9).

Land Tenure.

M. van REES said that there appeared to be only 100 acres of Crown land. Article 6 of Ordinance 8 of 1922, however, enumerated eight different kinds of lands. Was there, therefore, no contradiction between these two statements ?

Sir J. COOK replied that almost the whole island consisted of phosphate deposit and evidently 100 acres only were considered necessary for Government purposes. Articles 6 corresponded to similar clauses in ordinances for other territories, and it had little practical effect in the small island of Nauru.

M. van REES enquired to whom the Crown lands belonged.

Sir J. COOK replied that the Administrator possessed all rights over Crown lands which had formerly been possessed by the German Government.

M. van REES said that the Administrator, therefore, managed the land, but who was the owner ? Was it the British Empire ?

Sir J. COOK replied in the affirmative. Australia, as administering the mandate, was the legal owner of it for the moment.

Sir F. LUGARD said that, in view of the small number of the native inhabitants (1,068), the taxes appeared to be heavy.

Sir J. COOK said that he knew of no other tax upon the native than the capital tax of 15s. per head and duties imposed under customs tariff.

Sir F. LUGARD said that these constituted a heavy tax and, in addition, there was a 10s. per ton export tax on copra. As the chief expenses of the administration were incurred in respect of indentured labour, it might seem that, owing to the richness of the country, the natives need not be taxed at all, or only to a very small degree.

Sir J. COOK said that it would hardly be correct to say that the chief expense arose from indentured labour. He said that taxation amounted to £2 per head for Europeans, £1 per head for Chinese, and 15s. per head for natives. The receipts from this represented the cost of administration. The bulk of the natives were well-to-do. They were paid 3d. for every ton of phosphate extracted from their land, and high compensation when their land was taken by the company. All the evidence showed that the natives were better off than they had ever been before.

The CHAIRMAN pointed out that the poll tax of 15s. per head did not appear in the revenue.

Sir J. Cook thought that it was either to be found under miscellaneous receipts, or that it had been imposed too recently to appear in the financial statement before the Commission.

Mr. Ormsby-Gore pointed out that its total yield amounted to about £1,000.

The Chairman hoped that in the next report the budget would be stated in more precise terms. He noted the small amount expended on education and health in proportion to that expended on the whole administration, which amounted to nearly £3,000.

Sir J. Cook pointed out that the health of Chinese labourers was, by the terms of their contracts, looked after by the phosphate company and did not, therefore, cost the Administration much, if anything.

Sir F. Lugard noted the fact that, although there were only 1,068 inhabitants in the island, it was divided into fourteen administrative districts with fourteen chiefs.

M. Yanaghita enquired, with reference to the population, what was meant by the term: Kanakas. Did it refer to all persons of Polynesian origin ?

Sir J. Cook said that the term was used in a very wide and loose sense, and included the natives of many of the Pacific islands.

M. Yanaghita said that a distinction was made in Japan between two races of Kanakas

The Chairman, in thanking Sir J. Cook for the explanations with which he had furnished the Commission, took note of the fact that the mandate was being fulfilled in conformity with the spirit of the Covenant.

Sir J. Cook thanked the Commission for its expression of goodwill and approval.

TWENTY-FIFTH MEETING (Private)

held at Geneva on Monday, August 6th, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar.

196. General Observations by the Mandates Commission regarding the Administration of the Territories under B and C Mandates during the preceding Administrative Year; Observations of the Commission on the Administration of the Territories under French Mandate. (French Cameroons and French Togoland).

The Chairman laid before the Commission a draft report and suggested that it should be discussed section by section. He explained that the draft was intended to summarise the views expressed by the members of the Commission during the meetings, and which were included in the Minutes.

The Commission decided that these observations should refer separately, first to the general administration of all the mandated territories, and, secondly to the individual reports of the mandatory Powers.

The Commission decided to insert paragraphs in its general report dealing with public health, public finance and general international conventions.

It was further decided, in order to avoid duplication, to refer to these paragraphs in the observations on the administration of each of the mandated territories.

The paragraph on public finance was drafted as follows:

> "In connection with the financial administration of the mandated territories, the Commission would be glad if in future the reports could contain:
>
> "(*a*) A comparative table of the receipts and expenditure for the last complete financial year, and an estimate for the year under review.
>
> "(*b*) A detailed table showing the expenditure incurred in the direct interests of the natives."

It was agreed that the text of the paragraphs regarding public health and general international convention should be discussed when the general report was examined.

At the request of Sir F. Lugard, *it was decided to insert in the general report observations on the campaign against venereal diseases.*

The Commission examined in detail the draft observations before it regarding the administration of the territories under French mandate. (French Cameroons and French Togoland).

The text was approved, (Annex 13) with various amendments and subject to final drafting.

It was decided, in regard to the financial surplus realised by the administration of Togoland, to ask M. Duchêne to furnish a written explanation regarding this matter.

TWENTY-SIXTH MEETING (Private)

held at Geneva on Monday, August 6th, 1923, at 3.30 p.m.

Present: All the members of the Commission except the Count de Ballobar.

197. Financial Surplus realised by the Administration of French Togoland.

M. Rappard informed the Commission that he had received the following note from M. Duchêne regarding budget surpluses realised by the administration of the territory of Togoland, to which reference was made at the last meeting and also during the discussion of the report of the mandatory Power (4th meeting, July 23rd, 1923):

> "The French report on the administration of Togoland for 1922 gives, with reference to the budget of the territory only, general tables and summaries showing receipts and expenditure (page 38).
>
> "The account of the receipts and expenditure, as shown in the budget itself, clearly indicates the allocation of the interest on the securities in which the reserve funds on deposit have been invested. Chapter 4 of the ordinary expenditure of the budget includes the Item 3 (Revenues of the Colony) of which paragraph 1 is thus described:
>
> 'Proceeds of the investment of reserve funds, 30,000 francs.'
>
> "In the budget for 1923 there is a corresponding item showing an estimated receipt of 100,000 francs, the interest to be credited having increased.
>
> "It will be noted that this interest is included among the ordinary and current assets of the territory, no other allocation ever having been made in respect of them."

198. Observations of the Mandates Commission on the Administration of the Islands under Japanese Mandate.

This text was adopted, with formal amendments (Annex 13).

The Commission decided to adopt the formula approved for the French Cameroons in the paragraph on land tenure.

199. Observations of the Mandates Commission on the Administration of Ruanda and Urundi under Belgian Mandate.

This text was adopted, with formal ammendents (Annex 13).

200. Observations of the Mandates Commission on the Administration of South-West Africa under South African Mandate.

This text was adopted, with formal amendments (Annex 13).

The paragraph on land tenure was very carefully revised, as well as the paragraph on moral, social and material welfare. The Commission emphasised, in discussing this latter paragraph, that the conditions noted owed their origin in great part to events which took place prior to the assumption of control by the Mandatory.

201. — Observations of the Mandates Commission on the Administration of Territories under British Mandate.

Tanganyika.

This text was adopted, with amendments in detail (Annex 13).

202. — Plenary Meeting. Attendance of the Accredited Representatives of the Mandatory Powers.

The Chairman communicated a letter which he had received from M. Duchêne. It was decided that M. Duchêne should be invited to attend the plenary meeting to take place on Wednesday, August 8th, at 11 a.m. At this meeting Major Herbst and M. Matsuda would also be present, and, failing M. Matsuda, who might still be kept for the session of the Temporary Mixed Commission for the Reduction of Armaments, a substitute would attend.

The Commission, noting a communication from Major Herbst to the Chairman, decided that Major Herbst could only be invited to the plenary meeting in order to make declarations, if necessary, in the name of Sir E. Walton concerning the report on the territory under South-African mandate.

It was agreed that, as regards the report on the Bondelzwarts affair, Major Herbst might, if he wished, appear again before the Commission in order to make a declaration, but that no new discussion should be opened in this connection. The report of the Commission to the Council on the Bondelzwarts affair would be communicated officially to Major Herbst as soon as it was finished, and it would be for Major Herbst to present to the Commission any observations in writing which he might desire to make on the report. This would be submitted to the Council.

TWENTY-SEVENTH MEETING (Private)

held at Geneva on Tuesday, August 7th, 1923, at 10 a.m.

Present: All the members of the Commission except the Count de Ballobar.

203. — Observations of the Mandates Commission on the Administration of British Togoland and the British Cameroons.

British Togoland.

The Chairman laid before the Commission a draft report.

The Commission discussed it paragraph by paragraph, and drew up the final text of its observations on the administration of British Togoland (Annex 13).

British Cameroons.

The Chairman laid before the Commission a draft report.

The Commission discussed it paragraph by paragraph, and drew up the final text of its observations on the administration of the British Cameroons (Annex 13).

On the proposal of the Chairman, the Commission requested Sir F. Lugard and Mr. Grimshaw, in collaboration with M. Rappard, to establish the final texts of the observations of the Commission on the administration of New Guinea, Nauru and Western Samoa.

Sir F. Lugard agreed to do this.

204. — Enquiry regarding the Bondelzwarts Rebellion of 1922: Re-examination of Major Herbst.

Major Herbst came to the table.

The Chairman said that the Commission was ready to hear Major Herbst since he had asked it to do so, but that discussion on the question was terminated. He reminded the Commission that its report would be sent to the Council, and communicated at the same time to Major Herbst, who had the right to submit his observations to the Council. He would also communicate them to the Commission, in order that they should be annexed to the report.

Major Herbst made the following statement:

I am very much obliged to the Chairman and the members of the Commission for giving me this opportunity. I intended to let the case rest where we finished the other day, but I must confess that I was under a wrong impression. I had not then considered that it was possible that we might get an adverse verdict on this matter from the Commission, and it was only when Sir E. Walton and I had given evidence and laid information before the Commission that we really became aware that the matter was far more serious than we had originally anticipated. I thought it would be better, therefore, before the Commission made its final report, that I should present more fully the case on behalf of the Administration. All the reports of the latter deal fully with the whole case, and the additional information given by me to the Commission the other day practically completes the case for the Administration. But I did not at that time think that it would be necessary to place before the Commission the views of the Administration and to ask the Commission to draw certain inferences from the circumstances of the case. I will do so as briefly as I possibly can, but when one is brief there is a risk of giving an impression of discourtesy, and I hope the Commission will realise that that is far from my mind.

I am justified, I think, in appealing to the Commission for a further hearing on the ground that the Commission is not exactly a judicial body. If the Commission were a judicial body it would be entirely regardless of the consequences of its verdict in the matter and of its decision,

but I take it that this Commission is an administrative body, and by the very fact that it has identified itself very closely with the Administration of South-West Africa by asking for a statement showing how the Civil Service is composed, how the laws are applied, and how the ordinary business of the country is conducted, it shows that it takes up more than the ordinary judicial attitude in regard to these matters. It cannot therefore be said to be regardless of the consequences of its actions in this matter, and any decision that may be given by the Commission will, of course, reflect itself on South Africa, and in the times to come the Commission must naturally bear the consequences of its actions.

I wish now to put the position. What is to my mind the principal factor, the main question, in the whole of this discussion is the position as it presented itself to the Administrator at the time of those occurrences. The Administrator is a public servant, he is vested with discretion in certain matters and holds a very high position. His opinion, therefore, is entitled to every respect. In ordinary circumstances, the opinion of an Administrator, where a matter of discretion is involved, is almost always regarded as final. He is the only person who is capable of judging a situation as it is presented at the particular moment. He is entirely responsible for his actions, and it is only afterwards, when his action is criticised by another body, that he is required to give an account of the happenings of the particular moment, and to justify his action. I may say that in the whole of my experience — and I have thirty years' experience of administration in South Africa — I do not think that there are many — certainly not more than two or three — cases where a Commission or any body of men has latterly condemned an official on the question of exercise of discretion, and then only on the clearest and most undoubted evidence that he has been guilty of bad judgment in the exercise of his discretion.

I have to detail to some extent the circumstances as they existed at that time. The first intimation of disturbance was a telegram from the magistrate giving an account of a conflict which had arisen between the police and Morris and a certain number of men who had entered the territory from the Union of South Africa without the necessary permits and with arms. In ordinary cases, the possession of arms by a native of the territory is absolutely forbidden.

It is not only forbidden by the law of the country, it is forbidden by international agreements, and it is part of the duty of this Commission to see that that particular law in the mandated territory is carried out strictly. In this particular case, a body of men entered from the Union without a permit for their persons to enter the territory, without a permit for them to be possessed of rifles and to bring them into the territory, and without the necessary veterinary permit to bring a very large number of stock into the district of Warmbad. Take away all questions of grievances existing amongst the Bondelzwarts tribe, strip this wholly of any question of grievances, and what do we find: that a number of people had entered the territory of South-West Africa with arms in their possession in defiance of the law. They entered the Bondelzwarts reserve and they remained there. Immediately the magistrate at Warmbad, who is responsible for the administration of the district, both police and otherwise, heard of this inroad from the Union, he took steps to ask Jacobus Christian to tell Morris to come and report to him. They declined to do so and police action followed. Sergeant van Nickerk went out and unfortunately trouble arose between him and the Bondelzwarts. Morris and his party refused to allow themselves to be arrested, while Jacobus Christian and the Bondelzwarts, as the occupiers of the reserve, resisted the efforts of the police to effect the arrest in their reserve. That is the position which existed at the time the information reached the Administrator of this particular event.

What did the Administrator do ? In the first place, the Administrator sent Major van Coller to investigate the whole position and to ascertain if the facts, as reported by the magistrate, were correct. What would nine out of ten administrators have done in a similar situation ? I ask the Commission. I say that nine out of ten administrators similarly situated would have simply instructed the magistrate to see that the ordinary course of the law was followed, and that was that the arrest of these people should be effected with or without bloodshed. But what did the Administrator in fact do ? He sent the senior police officer of the territory down to make this investigation and to get into contact with the Bondelzwarts. He instructed him first of all to try to settle the matter amicably. As the members of the Commission will have gathered from all the papers laid before them, there has, undoubtedly, in the past, been friction between the police and the Hottentots ; they are very stubborn and they are not prone to accept police authority. It is one of the great difficulties always with the Bondelzwarts that they are perfectly amenable and loyal to the higher authorities. If a senior officer of the Administration goes to them they receive him and there is no difficulty so far as they are concerned, but when the ordinary policeman goes round in the execution of his duty he is always met with obstruction and opposition. It is characteristic of the Bondelzwarts. Therefore the Administrator considered that it would be as well if he sent Major van Coller down first to find out whether there was any suggestion of misconduct on the part of the police in this matter. Major van Coller made the necessary investigation afterwards, and was unable to find that the police were in any way to blame for this transaction; everything confirmed the fact that these people had arrived from the Union with arms and that Jacobus Christian and the Bondelzwarts tribe were determined at all costs to resist any action on the part of the Administrator to disarm not only Morris and his people but Jacobus Christian and those people of his tribe who we then found for the first time actually possessed arms.

A far more serious position than we had ever suspected had then arisen, and that was that a large number of the Bondelzwarts people were actually armed in defiance of the law, in defiance of the Convention and regardless of the law, in that respect. The Administrator then said: "Before we go any further, before we consider the question of clemency, not only has Morris to be given up, but all the arms you people have in your possession have to be delivered up to me". If that were not done, what would be the position of the Administrator in the country ?

Then began these endless negotiations. First of all, the magistrate himself tried to get Christian to go and see him at Windhoek. He had declined. Secondly, Major van Coller tried, through Monsignor Krolikowski, and tried with the assistance of the magistrate and of Mr. Noothout, to get Jacobus Christian to go to see the Administrator. He actually offered him free rail warrants in order to enable him to go to see the Administrator. It has been suggested here that Christian was frightened to go and see the Administrator as he was afraid that he would be arrested. Well, read what happened in the previous case when Christian in similar circumstances entered the territory. On that occasion, Christian was informed that he could not come in with rifles and ammunition. He would have to surrender them and himself to the law. The same difficulties then arose between the police and Christian and these people. The police, by strategy, secured the arrest at that time of three or four of the principal Hottentots whom they invited to go and talk this matter over. The Administration, as soon as it learned that these people had been arrested in these circumstances, ordered their immediate release, which was done and they were returned to their people. Now, I say that Christian could not possibly have been under the impression that he would be arrested if he went to see the Administrator and, as a matter of fact, Major van Coller had furnished him with a safe-conduct so that he could go and see the Administrator and return from the Administrator; in all these circumstances, I cannot possibly see how it can be said that the Administrator did not exhaust every means at his command to secure a personal interview between himself and Jacobus Christian.

I have already said in my evidence that, when we were at Kalkfontein, I took an interest in the matter, and personally saw to it that messengers were sent to Jacobus Christian to advise him that the Administrator was there and was prepared to see him at any time and place approved by the Administrator, if he wanted to see him. The Commission of Enquiry has recorded that that message was received. We had no knowledge of the effect of these messages on Jacobus Christian, but we learned afterwards from the evidence of Beukes that Christian, on receipt of these messages, told the people that "if the Administrator wants to see me, he can come to me."

The attitude of Jacobus Christian at this moment is revealed in a letter he wrote to a friend of his in the Union — Abraham Watt. It is dated May 16th, 1922 (see page 15 of the report). He says: "On account of this branding-iron we are unable to come to an agreement with the Government since we desire to keep the iron in our custody. Further, in this trouble about the branding-iron, Abraham Morris has arrived with a few men and stock and this has made the trouble greater. Therefore the tribe, and I myself also (this is a noteworthy statement because there is a suggestion that Christian was acting under the influence of his people and could not take any action) have refused, since he has stolen nothing from anyone and he is not guilty. He has been sent out of the land by the new Law and he has only come back to the land of his birth. Therefore, we objected to his being arrested, and thereupon war follows, since we are promised by the Sergeant that in a few days' time we shall be exterminated, and so the police are now in command at Driehoek, and I have brought my people together at Haib and so am I also ready to receive them."

Christian wrote that on May 16th, which was a long time before any fighting took place. He goes on to say: "Further, dear friend, on the 16.V.22 the Chairman of the Bondels Commission (the Superintendent) came with a Priest (Bishop) to negotiate with us for peace." He does not say "to hear our grievances", but "to negociate with us for peace."

Now that you have heard that the Administrator had made all these efforts, both directly and indirectly at Kalkfontein and elsewhere, to obtain an acknowledgment from Jacobus Christian in response to his message that he should go to negotiate, or talk things over, I ask you how it is possible for any man having the authority of an Administrator in a country where the native population far exceeds the white population in the Southern area, to maintain the prestige of the Administration and yet follow the Hottentots to their stronghold where they had collected arms and were thus prepared to take the law into their own hands and to resist the authority of the Government ?

I have no responsibility and no interest in this matter whatsoever ; it was conducted by the Administrator himself from beginning to end. Speaking with all sincerity, and with thirty years' experience in the service of the Government, I cannot see how any responsible person can come to the conclusion that the Administrator should have gone to the Hottentots' stronghold and attempted to enter into negotiations with them in these circumstances and under these conditions. So far as we were concerned, there was no rising or rebellion up to that moment. The action of the Administrator had nothing to do with a punitive expedition at the time.

We have seen criticisms because the affair has been called a rebellion and a rising, also enquiries were made with regard to the Administration ; but to my mind, the question at that time was not one of rebellion at all ; it was the reinforcement of the police to such an extent that they would be able to carry out the ordinary duties entrusted to them. It was only later that we learned there had been a plan to make war against the Government, and that such things as the "dog tax" and the "branding-iron" had come into consideration. Therefore, I would ask the Commission to dismiss entirely from its mind the question of grievances when it comes to consider whether the action of the Administrator was justified in the particular circumstances prevailing at the moment.

In regard to the facts there is no dispute ; it is different, however, as regards the conclusions drawn from those facts. There is no doubt as to what took place up to the particular moment that the troops were put into motion. What is the opinion of the Commission of Enquiry on this particular matter ? We read on page 22 of the report (paragraph 97): "The Commission felt, when considering the evidence dealing with the period between the visit of van Niekerk and the breaking out of hostilities, that the Administrator wished for peace, and throughout the whole

of the negotiations he desired to effect a settlement without recourse to arms, and showed patience and forbearance." That is the recorded opinion of the Commission.

I ask whether it is possible for the Mandates Commission to say, in the face of the circumstances and of this opinion, that the Administrator acted indiscreetly in the matter and that he should have gone to Jacobus Christian, followed him into his stronghold, and attempted to negotiate with him — to negotiate with people who had broken, not only the law of the country, but the law imposed on the country by international obligations ? There should be absolutely no doubt in the minds of the members of the Commission on this particular matter, if that is their opinion. Before the Commission expresses such an opinion to the world, it should have explicit evidence to justify it. The Commission must be able to transfer its thoughts from the serene atmosphere of this country to the troubled territory of South Africa, and consider what the effect of an expression of opinion of that nature is going to be in that country.

The report of the Commission of Enquiry is not unanimous ; it is composed of three gentlemen from the Native Affairs Commission of the Union of South Africa. The Mandates Commission has rightly made enquiries as to whether these gentlemen were not competent. I have pointed out that they are perfectly competent and that, so far as the Union itself is concerned, no men could be more competent. My opinion refers to all three gentlemen, not only to the majority, and I have not even heard the name of General Lemmer mentioned here. During the whole of the time I have been before the Commission, his opinion seems to have been entirely ignored. General Smuts described this report as the "soul of South Africa." That is the term he used in the discussion before Parliament.

M. van Rees: What is the meaning of this expression ?

Major Herbst: It is difficult for me to go into politics because I am a Civil Servant, and if you really want an adequate explanation of the meaning of that term it is necessary to enter somewhat into politics. Roughly, it means that in South Africa, from time immemorial, there is a division of opinion existing as to native policy between the British Section — particularly the Home Section of the British — the Colonial Section of the British and the Dutch population. Originally, the whole of the English Section took up the position that the Dutch were always wrong and committed offences against the natives, and that the natives were always in the right. These lines of thought in a modified way are reflected in this report. You have two perfectly honest opinions on the same circumstances ; the one is as honest as the other, but one point of view happens to have a majority over the other ; therefore I ask the Commission not to accept an opinion on this question by the number of votes on one side or the other, but to probe the report, and to go into the fullest details of the matter reported there. The unfortunate circumstance exists that one person with the most honest convictions has recorded an opinion contrary to that of two other persons also with the most honest convictions. Therefore I say, with all respect, that the opinion reflected in the minority report should also be given consideration, because, after all, it reflects the opinion of three-fourths of the population of South Africa to-day.

I ask the Commission, even at this eleventh hour, carefully to weigh not only the conclusions which it may come to, but the effect which they will have on the populations of South Africa — white and black alike. I ask it only to express an honest opinion. I do not for a moment wish to suggest that, because there is a division of opinion, the Commission must depart from its duties and conscience merely to cloak the judgment of the Administrator ; but, knowing the facts as I do, and having been on the spot at the time of these occurrences, and being *au fait* with practically every phase of these negotiations and subsequent events, I ask the Commission to say that there is nothing here to justify any criticism of the action of the Administrator in this particular matter. The Commission of Enquiry took up a most serious responsibility by interfering with the discretion of the local official.

What would be the effect on an Administrator of such a censure coming from a body like the Permanent Mandates Commission ? Could he possibly, with any self-respect, continue in the occupation of the post ? Who, moreover, is going to carry on the administration in the face of such a statement coming from the Mandates Commission ?

When a number of people break the law and oppose themselves to the authority of the government, is it to be laid down that it is the duty of the Administrator to enter into negotiations with them and to endeavour to obtain their consent to make themselves amenable to the law. I do not overlook the fact that, when dealing with natives, special considerations must be taken into account; but I would point out that every effect has been given to those considerations, and that everything possible was done to bring these people to a sense of the danger they were incurring in resisting the Government.

If the statement is to go forward to South Africa that in the circumstances the Administrator is to do what is suggested, I reiterate that it is not possible for any man with any self-respect to occupy that position in the future. Moreover, what is the effect of it going to be on the white inhabitants of the territory ?

I have tried to point out in documents, and in verbal statements, that the European population in that territory is hostile to the policy of the Administrator in regard to the natives; it considers that it is far too liberal; and if the European population now hear that the Administrator has to go to the natives whenever they oppose the law, or the police in carrying out the law, I do not know what is going to be the result. In South Africa one of the first rudiments of policy is to secure respect for the law from the native population. In South Africa this policy is followed in respect of both white and black.

Members of the Commission will be aware of the grievances in Johannesburg and Bulhoek where Europeans and natives were respectively concerned. At Johannesburg, while matters

were peaceful, the Government did not intervene, except to assist in a settlement. When the white population took the matter into their own hands, in order to seize the reins of government for itself in Johannesburg, the Government intervened and administered the law. At Bulhoek this Commission which had investigated the Bondelzwarts affair was employed by the Government to try to effect a settlement. That Commission twice visited the natives at Bulhoek in the endeavour to effect a settlement, but it failed to do so. I ask whether it is now possible to introduce a new policy into South Africa and to say when natives break the law there must be a conference with the highest authority in the land. We cannot afford a standing army in South Africa; the native population far outnumbers the European population, and unless action against the Government is suppressed as speedily as possible, we cannot foresee the consequences. We always endeavour to be perfectly just to the native and to treat him with every consideration, but when he opposes himself to the law it is necessary, in a country like South Africa, that the law should vindicate itself. We still have natives there who are only impressed by show of force; that is all they recognise as appertaining to a government. As regards administration, the Administrator, in his memorandum, has referred to a statement made by the Commission with regard to the administrative defects which are said to exist. The Administrator pointed out in his memorandum, and also in his report for last year on the administration of the country, what he has done with regard to native reserves and native administration. I do not see that I can serve any useful purpose by again referring to these matters. I take the view that this Commission is here to collaborate with the Administration and to point out where it considers there is a defect; but not to criticise. Therefore, with all respect, I would urge upon the Commission that it should, if possible, say that it has read the reports on the subject and heard a statement from me as to the actual facts, and that it has not been possible for it to come to a conclusion in regard to this matter at this session.

There is no urgency at all; the event has passed and become history. The course I have suggested would give the Union Government and General Smuts ample time to consider the question further, and, if necessary, would enable the Union Government to communicate what it considers to be its views on the matter. After all, the Commission has nothing to do with the Administrator of South-West Africa; the Commission deals with the mandatory Government, viz., the Union of South Africa. The Administrator of South-West Africa is an official of the Union Government and the Union Government is the authority responsible for every act that occurs in that territory. Therefore, it must follow that the Union Government, not the Administrator, is responsible and should be heard further.

I would ask the Commission seriously to consider the effect of an adverse criticism in South Africa. We are going to have an immediate outcry. If the Administrator resigns, the matter will not end there. He will seek redress in Parliament.

The CHAIRMAN thanked Major Herbst, who withdrew.

The CHAIRMAN said that, when the report was drafted, it would be addressed exclusively to the Council.

TWENTY-EIGHTH MEETING (Private)

held at Geneva on Tuesday, August 7th, 1923, at 4 p.m.

Present: All the members of the Commission, with the exception of the Count de Ballobar.

205. General Report of the Commission to the Council: Recommendations of the Permanent Mandates Commission.

The Commission adopted, with formal amendments, the text of the notes and recommendations to be addressed to the Council on the following questions (Annex 13):

Public Health
Introduction of uniform duties on spirits.
Frontier between the French and British Cameroons.
Military recruiting.
Liberty of Conscience.
Financial Administration.
International Conventions.
Labour.
Loans.

206. State Enterprises in the Territories under Mandate.

M. Rappard read the following draft recommendation, based on the discussions of the Commission concerning the administration of New Guinea:

> It would be contrary to the spirit of disinterestedness which is the principal characteristic of the mandate system for the mandatory State to take advantage of its mandate in order to establish in the territory with the administration of which it is entrusted an enterprise of a commercial character.

M. van Rees thought that this recommendation raised a difficult question, which the Commission had not yet thoroughly examined, and concerning which he personally had not yet formed an opinion. He proposed to postpone it to the next session.

M. Yanaghita supported this proposal, *which was approved by the Commission.*

207. Land Tenure.

Arising out of the comparison between the French and English texts of the draft note and recommendation on land tenure in the territories under mandate, there was an exchange of views between M. van Rees and Sir F. Lugard in regard to the definition of the system of State domain in these territories.

The Chairman thought that an extremely delicate legal point was involved, which it was not perhaps for the Commission to decide.

M. Rappard suggested that the question might be postponed to the next session.

The Chairman asked what was the opinion of the Commission.

It was decided that M. van Rees, whose work on this subject constituted so important a contribu-

tion to the study of the question, should get into touch with the Legal Section of the Secretariat in order to obtain from it a reasoned opinion on the subject.

208. Agenda for the Plenary Meeting.

Observations of the Commission on the Annual Reports of the Mandatory Powers.

The Chairman reminded the Commission that only a small number of accredited representatives of the mandatory Powers could be present at the plenary meeting which would be held on the following day at 11 a.m. He asked whether it would be advisable to read the observations on all the annual reports, or only the observations on the annual reports of the Powers whose accredited representatives were present.

The Commission decided, on the proposal of M. van Rees, *not to put on the agenda of this meeting the reading of the observations on the annual reports.* The Commission would, however, accede to the request of those of the accredited representatives who asked for a public reading of the observations on the administration of the mandated territories by their respective Governments.

Notes of the Commission on Particular Questions.

The reports on particular questions to be submitted at the plenary meeting were nine in number.

On the suggestion of M. Rappard, who emphasised the importance, both for the Mandates Commission and the League of Nations generally, of interesting the public and the press in the plenary meeting, it was agreed that various members of the Commission should present some of these reports with a short commentary.

The reports were distributed as follows:

Introduction of uniform duties on spirits Military recruiting	Sir F. Lugard.
Public health Liberty of conscience	M. Beau.
Loans	M. F. d'Andrade.
Frontier between the British and French Cameroons	The Chairman.
International Conventions	M. Orts.
Labour	Mr. Grimshaw.
Land tenure	M. van Rees.

In regard to the last of these reports, *it was agreed that M. van Rees should confine himself to making a statement on the question, without drawing any conclusions; he would mention that the subject was still under investigation.*

209. Frequency of the Sessions of the Commission.

The Chairman reminded the Commission that two annual sessions had been proposed. Sir F. Lugard had said he did not believe it was necessary to have two sessions. M. Yanaghita, moreover, had stated that it would be impossible for him to come twice to Geneva. The opinion of the majority of the Commission seemed to be as follows: the June session would be devoted to the study of the majority of the reports. All the special questions raised on the reading of these reports, as well as all those which the Council might refer to the Commission, would be placed on the agenda of the winter session.

M. Yanaghita did not deny the advantage of two sessions in the year. He emphasised, however, how difficult it would be for him to follow the discussions if he were only able to be present at one of the sessions. Further, quite apart from his own personal convenience, such a solution would result in depriving the Commission of the point of view of a Japanese colleague.

M. Rappard suggested that the Commission should hold an ordinary session of at most fifteen days at the beginning of the summer, and, if necessary, an extraordinary session in the winter.

Sir F. Lugard said he did not raise any objection of principle to holding two sessions in the year. He was of the opinion, however, that a different organisation of the discussions on points of detail would enable the Commission to finish its work in a single session of fifteen days.

The Chairman reminded the Commission that the Rules of Procedure gave to the Chairman, in agreement with the majority of the members of the Commission and with the President of the Council, the right to convene the Commission for an extraordinary session in case of need. He, therefore, thought that there was no occasion to change the Rules of Procedure on this point.

The Commission agreed.

210. Special Questions relating to the French Mandates.

M. Rappard reminded the Commission that certain points would have to be discussed with M. Duchêne — the petition of the African Progress Union, the movements of native population between French and British Togoland, and the question of the frontier between the British and French Cameroons.

It was decided that the Commission should devote itself to the study of these various points at a private meeting which would precede the plenary meeting.

TWENTY-NINTH MEETING (Private)

held at Geneva on Wednesday, August 8th, 1923, at 10 a.m.

Present: All the members of the Commission with the exception of the Count de Ballobar.

211. Loans, Advances and Investment of Private Capital in Mandated Territories.

The Commission drew up the final text of its observations and conclusions on this question.

212. Special Questions relating to territories under French mandate.

a) *Petition of the African Progress Union.*

M. Duchêne came to the table.

The Chairman asked M. Duchêne what action the French Government would take as a result of the letter sent to it by the Chairman of the Commission regarding the petition of the African Progress Union.

M. Duchêne replied that the French Government had given the local authorities in the Cameroons a free hand. These authorities had obtained information on the affair and had reached the conclusion that the person who had begun the scheme, M. Benito J. Macfoy, did not seem to be able to carry it through. Measures were about to be taken to ensure, on the receipt of further information, the despatch of a definite reply to the request which had been made.

After an exchange of views, *the Commission decided to inform the petitioners that the French Government was about to undertake a supplementary enquiry.*

b) *Movement of the native population of the Cameroons and Togoland.*

The Chairman asked M. Duchêne if he could give any supplementary information regarding the movement of the native population across the frontier separating French and British Togoland.

M. Duchêne replied that he had obtained information on this question. It appeared that it was not in order to avoid the payment of taxes that the natives of French Togoland went to British Togoland. In reality there was a constant flow of population from both sides. Natives inhabiting British Togoland upon whom fines had been inflicted fled to French Togoland, and chiefs who were on British territory recruited the natives on both sides of the frontier as labourers. As the frontier was only traced on paper and was unknown to the natives, they easily crossed it.

Sir F. Lugard recalled M. Duchêne's statement that the restrictions on the emigration of women from the Cameroons were imposed in order to prevent the traffic in women. The Commission had asked the British accredited representative whether he knew anything of such a traffic and he had replied that he had never heard of it. Sir F. Lugard therefore asked M. Duchêne if he could give the Commission any further information on the subject.

M. Duchêne replied that the only information which the French Government possessed on this point was to be found in the report on the Cameroons, page 13. In Africa, traffic which resulted in the removal of native women from their country was always to be feared.

The Chairman thanked M. Duchêne for his explanations and informed him that his note on the reserve funds in Togoland would be annexed to the Minutes of the meeting at which it had been discussed.

THIRTIETH MEETING (Plenary and Public)

held at Geneva on Wednesday, August 8th, 1923, at 11 a.m.

All the members of the Commission were present, with the exception of the Count de Ballobar. The following accredited representatives of the mandatory Powers were also present:

M. DUCHÊNE (France); M. USAMI (Japan), representing M. MATSUDA; Major HERBST (South Africa), representing Sir E. WALTON.

213. — WORK OF THE PERMANENT MANDATES COMMISSION.

The CHAIRMAN spoke as follows: Gentlemen, it is laid down in the rules of procedure of the Permanent Mandates Commission that, after completing its observations on the annual reports from the mandatory Powers submitted to it for consideration, the Commission should hold a plenary public meeting in the presence of the accredited representatives who have collaborated in its work. Several of the representatives, however, after attending the discussion of the reports specially concerning them, have been called back to their posts by urgent official engagements.

The rules of procedure do not specify the questions to be placed upon the agenda of the plenary meeting to which I have referred. In view of the nature of the Mandates Commission as an advisory body to the Council, and in view of the opinions put forward by certain delegates at the last Assembly, it was thought expedient to consider in public to-day only certain questions which are of comparatively wide interest. The Commission considered that, before acquainting the public with the special comments suggested by the perusal of the annual reports, it was advisable first to communicate them to the interested Governments and to the Council of the League. With regard to this portion of our work, I am of opinion that I should first and foremost state on behalf of my colleages that the territories administered on behalf of the League of Nations by the mandatory Power under Article 22 of the Covenant have, generally speaking, been governed by those Powers with unremitting solicitude. During our consideration of the reports we have noted with satisfaction that the guarantees which are laid down in the Covenant in the interests of the native populations and of the League as a whole have in the main been scrupulously respected. In spite of the difficulties of the task, which are particularly great at a time when no Government can obtain abundant supplies of money from its budgetary resources, the mandated territories are profiting by the advantages which the authors of the Covenant desired to secure to them.

In addition to the annual reports which the mandatory Powers must, under the terms of Article 22 of the Covenant, submit to the Council, the Government of the Union of South Africa has transmitted to the Commission various documents relating to the Bondelzwart affair, which forms the subject of the decision taken last year by the third Assembly of the League of Nations. The report, in which the Mandates Commission's conclusions on the matter will be contained, will be forwarded to the mandatory Power concerned and to the Council of the League of Nations. It will not be discussed here.

Finally, during the examination of the annual reports, the Commission's attention was drawn more especially to several very important questions — an opinion on which the Commission thought itself bound to submit to the Council. I refer to its recommendations on these various questions selected from the general report which will be sent by the Commission to the Council and which you have before you. Each of these questions will be dealt with by a member of the Commission who has undertaken this work, in a brief verbal report intended to set forth the origin of the question and to define its scope. After each of these reports has been made, I shall have the honour to invite the accredited representatives of the mandatory Powers present at this meeting to make a statement. I take this opportunity of expressing to them, on behalf of the Commission, our sincere thanks for the assistance afforded us in our work by their industry and knowledge.

The Commission's work is increasing from year to year, both because it is becoming more important and because the questions handled are questions of great intricacy and require ever increasing and ever more conscientious efforts on the part of those who are called upon to co-operate with the Commission.

I am glad to express on behalf of the Commission the entire satisfaction which all its members feel in regard to this assistance, and I wish here to mention the Commission's gratitude to the staff of the Mandates Section and of the Central Services of the Secretariat.

214. — Liberty of Conscience.

M. Beau said: Religious strife has occupied too large a place in the history of civilisation for any astonishment to be expressed concerning the rivalries between the missionaries of different creeds which the Permanent Mandates Commission has been informed are causing serious difficulties in certain parts of Tanganyika. The representative of the mandatory Power has enquired whether the Commission would consider it to be contrary to the principles of liberty of conscience and of the free exercise of religion, laid down by the Covenant, if the authorities were to intervene among the missions and assign them spheres of influence which would be reserved exclusively to each.

The Commission has thought that it is not possible to lay down a uniform line of conduct applicable in all cases. The general rule must be the preservation of liberty of conscience and the free exercise of their religion for all. The administrator has the duty on his own responsibility of forming with the utmost impartiality a considered judgment upon the conditions indispensable for the maintenance of public order. He will doubtless very often be required to show patience, moderation, indulgence and some gentleness towards those whose special duty it should always be to give an example of all the evangelical virtues. He should not, however, without having exhausted all means of conciliation, have recourse to a measure of the kind which has been brought to the notice of the Commission and of which the inevitable result would be to limit the freedom accorded to missions and to expose him to the reproach of having favoured one mission at the expense of another.

The following text has accordingly been adopted by the Commission:

"The accredited representative of one of the mandatory Powers informed the Commission of the difficulties which have arisen in certain districts of a territory under mandate B, as a consequence of the competition, degenerating into rivalry, between religious missions of different faiths. The zeal which animates missionaries induces them to open, in the same place, churches or schools where the teaching is inspired by different doctrines. It can easily be imagined that this state of affairs may lead to disquiet among the natives, who are still in a condition of barbarism, and be the cause of serious unrest. It will be remembered that religious rivalries have in the past provoked grave incidents in Central Africa.

"It, therefore, occurred to the Governor of the territory in question that, under a system which guarantees liberty of conscience and the free exercise of religion, it might be possible for the mandatory authority to take action in the matter, for example by assigning spheres of influence to the various missionary bodies. This system has been employed with success in certain colonies.

"The Commission considered that it would be going beyond the terms of the Covenant were it to dictate to the responsible authorities administrative measures which might appear to be justifiable in such circumstances. It did not consider, however, that it should abstain from announcing the criterion which it would adopt, should necessity arise, in judging the legitimate character of any regulations which might even indirectly affect freedom of conscience. The Commission therefore drew attention to the fact that the mandate makes the free exercise of religion subject to the condition that it should not be prejudicial to public order, and that, in this connection, the mandate gives to the mandatory Power the right to exercise such control as may be necessary for the maintenance of public order. The maintenance of order is the first duty of the Governor, and order is a necessary condition for the full development of all freedom, not excepting freedom of religion.

"Any regulations, therefore, arising out of the necessity for the maintenance of order will, if such order be genuinely endangered, be free from criticism, even should such regulations have the effect of restricting in some measure the free exercise of religion. On the other hand, any regulations on this subject which were to go beyond what is required for the maintenance of public order, any measure of a vexatious nature, or such as might have the effect of restricting the activities of the missions of any particular religious denomination, would be contrary to the terms of the mandate."

215. Liquor Traffic; Equalisation of Duties.

Sir F. Lugard said: The Permanent Mandates Commission, in its task of seeing that the terms of Article 22 of the Covenant of the League have been faithfully executed, has, of course, been compelled to devote special attention to the question of the liquor traffic which is described in the Covenant as one of the abuses which are to be suppressed. Its task has been very greatly facilitated by the passing of the Convention of St. Germain of September 10th, 1919, which, if it were faithfully executed, would practically abolish the whole of the liquor traffic.

The Commission has put a great number of questions to the representatives of the different mandatory Powers on this subject, and has noted with the greatest satisfaction that every one of the Powers has paid particular attention to it. In the Pacific, in Samoa and in New Guinea

there is very little liquor traffic; and in Samoa all liquor of every kind has been entirely prohibited. The question chiefly applies to West Africa. The Convention prohibits the importation of trade spirits, and the Commission has found that there has been some difficulty in the definition of this term. The manufacture of spirits in local distilleries is also prohibited. The Commission's duty has consisted in seeing that the terms of the Convention are carried out and that the prohibition zones which were established by the Brussels Act have been maintained. It formed the opinion that a great step forward would be taken if the equalisation of the duties charged on spirits by the different mandated territories could be obtained. It has, therefore, recorded the following resolution:

> "The Mandates Commission, recognising that dissimilarity in the import duties imposed on spirituous liquors imported into mandated territories gives rise to smuggling from contiguous territories, and may be a cause of friction:
>
> "Recommends that the Governments of France and Great Britain be invited to agree that the duties on all spirituous liquors imported into the territories placed under their mandates in Africa should not be less than the duties in the adjoining territories on similar spirits of equal strength;
>
> "And further that, in order to maintain this uniformity of duties, it is desirable that the two Powers should consult with each other from time to time with a view to assimilating their laws and regulations applying to the duties on import of spirituous liquors."

The Permanent Mandates Commission has not confined itself to the question of spirituous liquors alone. It has also been of the opinion that the manufacture of native fermented liquors has, in many cases, worked even more harm to the natives than the importation of foreign spirits. It has therefore asked a number of questions from the accredited representatives of the various mandatory Powers as to the steps they have been able to take to control the sale or manufacture for sale of native fermented drinks.

216. Application of Special International Conventions to Mandated Territories.

M. Orts said: The code of international relations is made up of conventions and general treaties and of conventions and special treaties.

General international conventions are those to which several Powers, or a group of Powers, have agreed and of which the general character springs from the fact that they deal with interests common to all the parties to them, or that their application extends over the territories of several States, or over a portion of a continent, as is the case, for example, in certain treaties and conventions applicable to the equatorial region of the African continent.

B mandates contain a provision in accordance with which "the Mandatory shall apply to the territory (under mandate) any general international conventions applicable to his contiguous territory". This provision is included in all the B mandates, though with a different wording in the case of the British mandate for East Africa. It specifies conventions and general treaties applicable to the territory. These include those concerning slavery, traffic in arms and munitions, liquor traffic, drug traffic or those dealing with commercial equality, freedom of transit and navigation, aerial navigation, railways, posts, telegraphs and wireless, literary, artistic and ndustrial property. This gives a complete idea of the sense to be attached to the words "general nternational conventions".

As the B mandates contain no reference to special treaties, the Mandates Commission, after considering the question, considered that the special international conventions entered into by a State do not apply *de jure* to territories in regard to which the State in question has been entrusted with a mandate, even when these Conventions would be applicable to the contiguous protectorates and colonies of the same State. This leads, as the Commission has recognised, to a situation prejudicial to the inhabitants of the mandated territories and to the economic development of these territories.

The inhabitants, for example, may not claim the benefits of any treaties which have laid down the legal status of nationals of the mandatory State *(traités d'établissement)* within the territory of other States. Accordingly, they are liable to have their rights of free movement questioned and also their right to carry on trade and to own property, although these rights may be recognised and guaranteed by treaty to the inhabitants of the contiguous colonies and protectorates of the mandatory State. This being so, the Commission has questioned whether further measures might not be adopted to give the fullest practical effect to the principle enunciated in Article 127, Section 1, Part IV, of the Treaty of Versailles, which states "that the native inhabitants of the former German oversea possessions shall be entitled to the diplomatic protection of the Governments exercising authority over those territories."

Moreover, the Mandates Commission has learnt that the benefits of the most favoured-nation clause included in commercial treaties have been refused in the case of goods coming from a territory under a B mandate, while products of the same kind coming from contiguous protectorates

of the mandatory State enjoy the advantage of this clause on being imported into the same country of destination. The Commission is of opinion that the intentions of the authors of the Covenant would be met if measures were taken to remove the disadvantages in which the state of affairs described places the inhabitants of mandated territories in regard to the protection of their persons and property and the exportation of the products of their soil and their industries.

The same question arose during the examination of the reports on the administration of the territories under C mandates, with a few slight modifications, due to differences inherent in the two types of mandate. A Power entrusted with a C mandate drew the attention of the Commission to the fact that a State to which it was bound by a special treaty did not regard itself as being bound to apply that treaty to the territory over which the former exercises its mandate. The argument on which this view is based is that the mandated territory, although administered as an integral part of the territory of the mandatory Power, constitutes a distinct entity from the international point of view. There would be two distinct entities, a sovereign State and the mandated territory, of which the administration was entrusted to the sovereign State. From this it follows that international treaties signed by the interested State would not apply legally to territories under C mandate. If this is the case, the Commission is of opinion that the same question arises indifferently and with the same considerations in the case of both B and C mandates.

Finally, the Commission thinks, and does not doubt that the Council will share its opinion, that the inhabitants of a mandated territory must enjoy all the advantages which would be theirs if, instead of being placed under the protection of the League of Nations, which is an exceptional and privileged position, they were only the subjects of a sovereign State.

The Commission accordingly deems it desirable to propose the following recommendation, which might be adopted by all the States Members of the League of Nations:—

> "That the Members of the League of Nations should forthwith consider the possibility of extending to the territories under B mandates the advantages which are conferred upon the contiguous colonies and protectorates of the mandatory State by special treaties and conventions entered into by that State with any other Member of the League of Nations, on the understanding that reciprocity will only be recognised if it does not in any way infringe the principles of economic equality.
>
> "With reference to the general conventions referred to in the mandates of the B class, the Commission requests the Powers holding mandates of this class to inform it as to which of these conventions applicable to their contiguous territories have been extended to the territories under these mandates. The Commission would be equally obliged if Powers holding C mandates would inform it which of such conventions have been applied to its mandated territories."

217. Land Tenure.

The Chairman said that the views to be expressed by M. van Rees were not part of the resolutions adopted by the Commission, but an account of the problem which had been examined by the Commission.

M. van Rees made the following statement: In the course of one of the meetings of the Mandates Commission last year, the attention of the Commission was drawn to certain legislative provisions enacted by the mandatory Powers in respect of their territories under B and C mandates, according to which the property and possessions which formerly belonged to the German Empire or to the German States composing that Empire was declared to form part of the State domain (*domaine de l'Etat*). The interest attaching to these dispositions was increased by the fact that, inasmuch as the institution of colonial mandates implies the rejection of any idea of annexing the former German colonies, the legal declaration by virtue of which certain property, land and other possessions would, in future, form part of the State domain might lead to the assumption that, contrary to the principle of the mandatory system, part of these colonies — admittedly not the whole — would become the property of the mandatory Power in its capacity as a State — which would be equivalent to the annexation of the part in question.

This state of affairs made it necessary to seek an answer to two questions: (1) To what State do the dispositions of which I have spoken refer ? The majority of the mandatory Powers have given a definite answer to this question. In accordance with their replies, the State which was mentioned in their domanial laws was the mandatory Power. I say the majority, because one of these Powers definitely stated, through its accredited representative, that the domain in question is considered by it to be the domain of the mandated territory itself, while the report of one of the other Powers adopted a similar point of view.

When this matter has been determined, a second important question arises, which I will state as follows:— (2) Would it be legitimate for the mandatory Power to declare land and other property in the mandated territories which formerly belonged to the German Empire to be its own property ? Would it have the right to do so ?

The examination of this question made it necessary, in the first place, to discover the exact meaning of the dispositions contained in Articles 120 and 257 of the Treaty of Versailles. The first of these articles provides that all movable and immovable property in such territories (that is to say, in former German colonies) belonging to the German Empire or to any German State shall pass to the Government exercising authority over such territories on the terms laid down in

Article 257. Article 257 provides, *inter alia*, that all property and possessions belonging to the German Empire or to the German States and situated in such territories shall be transferred with the territories to the mandatory Power in its capacity as such.

In view of the fact that, under the terms of Article 120, the movable and immovable property has passed not to a State but to a Government exercising authority over certain parts of the former oversea possessions of Germany, it appears to result therefrom that there has not been any cession of the full ownership of the property in question in favour of the mandatory Power. This view is confirmed by the terms of the part of Article 257 which has been quoted above. That Article, moreover, is directly related to Article 120.

No mention is made in the Article either of a transfer of property and possessions to a State, but to the transfer to the mandatory Power "in its capacity as such" — a reservation which appears to show that the transfer does not imply the possession of a right of ownership in respect of the property transferred. Moreover, the provision that the transfer of property and possessions shall take place "with the territories" appears to me to exclude the possibility that the signatories of the Treaty of Versailles could have intended that the transfer conferred private rights on the transferee, which, in practice, would imply the annexation of these territories.

According to this view, what has passed or has been transferred by virtue of Articles 120 and 257 to the Government exercising authority over the territory, or — which is the same thing — to the mandatory Power in its capacity as such, has been transmitted to it without alienation; neither the territories nor the rights, property and possessions of the German State were to belong to the Government in question; both the former and the latter were to be placed at its disposal in its capacity as Governor — a capacity which it acquires in consequence of its appointment to administer certain territories, and in order that it might be able to accomplish the task entrusted to it. It was to dispose of the property by virtue of its legislative and administrative power in the public interest, in favour either of the Administration itself or of a third party. It would therefore dispose of it as administrator and not as owner.

Moreover — and it is another aspect of the domanial question — certain mandatory Powers have declared vast areas of land, including land known as "vacant land" and other land generally regarded as constituting native reserves, to form part of the private domain of the State. With regard to these declarations it seems clear that the mandatory Power cannot acquire, in virtue of its legislative competence, however extensive it may be, the right to declare land forming part of a territory in respect of which it does not possess sovereign rights to be its own, or, in other words, to put its legislative competence to such a use that the territory would at least partially become its own property.

It is quite certain that none of the Powers could ever have proposed intentionally to adopt for mandated territories domanial formula — which is customary and perfectly comprehensible in the case of a State's own colonies — for the purpose of appropriating a portion of these territories. But the use of this term to designate the claimant of the domanial land, in spite of the fact that the juridical status of mandated territory is quite different from that of a State's own oversea possessions, might nevertheless lead to misunderstandings which it would seem preferable to avoid as far as possible.

These questions, which are of the greatest importance because they affect the very principle of the mandatory institution, could not be solved in the course of the present session of the Mandates Commission. They will be referred to the Legal Section of the Secretariat of the League of Nations and will be examined at the next session of the Mandates Commission.

218. Military Recruitment in Mandated Territories.

Sir F. Lugard said: There are some mandated territories which are administered as an integral part of the neighbouring colony or protectorate of the mandatory Power. In such cases a separate force, either a military force or an armed police constabulary, is not usually raised for the defence of the mandated territory itself, and a detachment from the permanent forces of the neighbouring territory of the mandatory Power is sent into the country for its control and defence. It would be relieved in due course by another detachment and would return to its own headquarters. It is usual for detachments of troops to accept recruits in whatever district they may happen for the time to be in order to replace men who are discharged. Following this usual custom, a detachment of the West African Frontier Force was sent into the British Cameroons territory and a few men in the Cameroons were enlisted to replace discharges in the detachment. The British accredited representative laid this question before the Mandates Commission and enquired of us whether such action would, in our opinion, infringe the terms of the Covenant, even if the numbers recruited were much less than those which would be required for the defence of the territory if it had been a purely local force belonging to the mandated territory.

Again, a further question arose as to whether, if recruits presented themselves in the colony or protectorate itself, outside the mandated territory, but were found to be natives of the mandated area, the mandatory Power would be justified in accepting these men as recruits in its forces. The Mandates Commission has recorded its unanimous and emphatic opinion on this subject in the following terms: "That the spirit, if not the letter, of the mandate would be violated if the Mandatory enlists the natives of the mandated territory wherever they may present themselves for engagement for service in any military corps or body of constabulary which is not permanently quartered in the territory and used solely for its defence or the preservation of good order within it, except as provided under Article 3, paragraph 2, of the mandate for French Togoland and the French Cameroons."

That clause allows the French Government to enlist troops in its mandated areas in Africa

in case of a general and universal war, and in that case only. We added that "a mandatory could not add to its man-power by drawing on the population of the mandated territory to supply soldiers, reservists or police constabulary for its forces."

219. Public Health: Venereal Diseases in Mandated Areas.

M. Beau said: Among the duties of colonising nations which have taken upon themselves the heavy task of educating backward races, the most essential is certainly that of defending them against diseases of all kinds which for centuries have ravaged them severely, particularly in the vast territories of tropical and equatorial Africa. For a long time the chief preoccupation of such Powers was the struggle against several of these scourges which were peculiar to Africa, such as sleeping sickness, the mystery of which has provoked and will continue to provoke so much research in the laboratories of the world. But now, science, penetrating deeper into the knowledge of these primitive populations and observing them from near at hand, knows that the great peril threatening their existence is not among those to which it has first pointed as the chief danger.

Another evil, which seemed for a long time to be the melancholy privilege of civilised peoples, among which it was, after long ages, deprived of its original cruel virilence, began to reveal itself among the backward populations of Africa and the Pacific as endowed with the most formidable powers of destruction. The populations of Africa and of the Pacific, above all of the former, which are so naturally prolific, are, without being aware of it, attacked at the very source of life and are decreasing practically everywhere with a disquieting rapidity.

The struggle against this scourge, which was so difficult in Europe, where it was for a long time and is to-day too often paralysed by the prejudice in favour of secrecy, is chiefly hindered in Africa by the carelessness of the black peoples, who pay no attention to the symptoms of a disease which they consider as a kind of inevitable toll to be paid for their pleasures. It was only natural that the League of Nations should, in a most pressing way, call the attention of the mandatory Powers to a duty which none of them certainly had failed to recognise or had neglected, but which ought to be imposed upon all of them with a force the greater because the evil to be fought and conquered was to a large extent the consequence of the conquest which had placed these peoples under their control or dominion.

The Commission has therefore adopted the following recommendation:

> "In examining several of the reports on the administration of mandated areas in the course of the last year, the Commission has been struck with the prevalence and apparent increase of venereal diseases among the native populations. The Commission is of the opinion that this serious question is worthy of the particular attention of the mandatory Powers. It would, it believes, be mutually helpful if the mandatory Powers, in their future reports, could give the fullest possible information on the incidence of venereal diseases in the various territories confided to their care, and as to the measures taken to combat this evil."

220. Loans, Advances and Investment of Private Capital in Mandated Areas.

M. d'Andrade said : After examining the reports of the mandatory Powers submitted to it, the Mandates Commission reached a conclusion, or rather confirmed a conclusion, which it would have reached for itself from *a priori* knowledge of the facts. The conclusion is that the development of mandated territories cannot be carried on by means of the ordinary budgetary resources of those territories and that they need outside financial assistance. Much has to be done in these territories and, apart from their material development, the mandatory Power is obliged to ensure the well-being and civilisation of the native populations. All this may require considerable expenditure without an immediate return. Further, this financial assistance can only be obtained by one of two means, either by loans or by subsidies furnished by the mandatory Power which, after all, and according to the statements of one of the representatives of the mandatory Powers whom we have examined, are only loans without interest granted by the mandatory Power, which it expects to be taken favourably into account in the future. To float a loan in these conditions, however—conditions which I will not call advantageous, but which are not burdensome—credit must be obtained, and it must be admitted that the credit of mandated territories is not very large, especially for reasons which I will detail in a moment.

The reports which we have examined have shown us that the mandatory Powers have employed different means to obtain the resources of which the administrations of the mandated territories stood in need. One of these Powers, for instance, proposes to place its own credit at the service of the mandated territory by guaranteeing the loan which this territory desires to float. Another Power has itself floated the necessary loan and has fixed the rate of interest. In addition to this, the mandatory Powers have also granted subsidies to cover the deficit on the mandated territory. Sometimes these subsidies have amounted to considerable sums. All this has been done without guarantees of any kind. This system cannot, however, be indefinitely maintained, and the mandated

territories will need, sooner or later, to have recourse to credit and to float their loans themselves. As I have already said, besides the difficulties which they may encounter, just as any other State, there is one which puts them in a particularly unfavourable position. Financial circles have shown fear in investing capital in mandated territories because they think that the mandate may be transferred or that the mandatory Power can itself resign the mandate. In this last case, financiers question whether their titles would be respected by a new Mandatory and whether that new Mandatory would accept the responsibilities of its predecessor, responsibilities in regard to which the League of Nations, under whose control the German colonies have been placed, had not been consulted.

Whether well-founded or not, this fear is a source of real difficulty and places the mandated territories in an unfavourable position when seeking to obtain loans on good conditions. It is with regard to this difficulty that the Mandates Commission, whose duty it is to facilitate the economic development of the territories in respect of which the Covenant has imposed heavy obligations upon it, has thought it its duty to call the attention of the Council of the League, in order that the League should not find itself faced in the future with a *fait accompli*.

In view of the present difficulties in having recourse to credit, the question may be raised whether, in order to facilitate the obtaining of credit, the Administration of the mandated territory can take as securities the revenues of the territory to guarantee the payment of the interest and sinking fund on the loans and, above all, whether it can mortgage to that end the public works in the country which constitute its property, such as railways, ports, etc.

These public works are naturally essential to the development of the territory and to the well-being of the native population, and, whether they are mortgaged, or whether very heavy financial charges are laid on the budget of the mandated territory, the result might be the establishment of a kind of lien on these territories, a lien which would be contrary to the spirit and letter of the Covenant, because it would make it impossible for any other Power than the mandatory Power to undertake the administration of the mandated territory. The League of Nations would henceforth be unable to possess any control over the administration of these territories because it would find an economic situation of such a nature that the mandatory Power would have, in practice, abandoned the rôle of protector which it is called upon to play by the Covenant for that of owner of the goods of the protected country.

Nevertheless, it is entirely just that, if a mandatory State has consented to make sacrifices which it knew to be inevitable, if it has guaranteed loans or made advances in order to ensure the economic development of the mandated territory, it should be compensated should the mandate be transferred; for otherwise it would not reap the advantages which would have come to it as a result of the sacrifices which it had made. It is the duty of the League of Nations to ensure that the mandatory Power obtains this compensation. For this to be done, however, it is necessary that the League should be consulted at least on the possible mortgages of essential property for the development of the territory.

If very heavy obligations are undertaken, if the property of the territory is mortgaged, the League of Nations, which is the final organisation responsible for the administration of the mandated territory, must be consulted in order that the mandatory Power may hope to obtain compensation for the financial sacrifices which it has made should it resign its mandate.

It is with this consideration in view that the Mandates Commission has thought it necessary to submit to the Council a proposal which has two objects: first to reassure financial circles by guaranteeing that any engagements undertaken towards them will be respected; secondly, and as an inevitable consequence of the responsibilities undertaken by the League, to obtain the assurance that very heavy engagements cannot be undertaken in a manner which would endanger the means of promoting that progress and civilisation which are indispensable to the well-being of the territory and of its inhabitants.

I have still one duty to fulfil. The Mandates Commission has not adopted this resolution because of the expression of certain fears resulting from the examination of the reports which have been submitted to it. On the contrary, it has noted that all the mandatory Powers have placed at the disposal of the mandated territories either their credit or their capital and without any guarantee of any kind, thus showing their desire to fulfil the duties which they have undertaken and, above all, a confidence worthy of the greatest praise in their own administration and in the future of the territories which they are administering, a future which will compensate them either directly or indirectly for the sacrifices which they are making to-day. The Mandates Commission has, however, thought that, despite the confidence which it has acquired from an examination of these reports, it must lay down certain general principles on a subject of so important a nature, a procedure which whould have no *raison d'être* in the face of accomplished facts. It is with this intention that it has drawn up the following text :

"The Permanent Mandates Commission is impressed by the fact that mandated territories are placed under a certain economic disadvantage owing to the following circumstances:

"The opinion appears to be held in some quarters that the mandate is revocable, and this, together with the possibility of its voluntary rendition or transfer, is by some regarded as a defect of title which presents an obstacle to the investment of private capital in the country. It may, on the other hand, deter the mandatory Power from guaranteeing loans or advancing large sums for development without a tangible security which would give it a permanent lien on railways, ports or other works vital to the interests of the country.

"The Commission considers that a pronouncement by the Council of such a nature as would remove this lack of confidence would greatly promote the economic prospects of mandated territories."

The questions at issue appear to be as follows:

(a) Whether it is admissible without the express sanction of the Council of the League for

a mandatory Power to mortgage as security for a loan any works constructed in a mandated territory (which, being the property of that country, would thus become mortgaged to the Mandatory.

(b) Whether, in order that the Mandatory may be enabled to guarantee a loan, or to grant advances and so obtain more advantageous terms of flotation, it may be possible for the League of Nations to notify that in the remote contingency of the transfer of the mandate, the new Mandatory would be held responsible for all guarantees for loans and all contracts entered into by the retiring Mandatory, and that the latter should be entitled to such reasonable compensation, from the funds of the mandated territory or from the new Mandatory for capital expenditure on specific works, as the League may determine.

(c) Whether, if the mandated area is attached to the neighbouring territory under the sovereignty of the Mandatory as an integral part of the administration of that territory, from a fiscal point of view, whether colony or protectorate, that territory thus becomes the guarantor of a loan or the source of financial assistance — wholly apart from and creating no liability upon the mandatory Power — such territory shall be treated in every respect as the mandatory Power would have been treated in the like case under the preceding clause, in the very remote contingency of the transfer of the mandate, and be subject to the same restriction as to liens or mortgages on railways and other works.

221. — Labour Questions.

Mr. Grimshaw said: A considerable number of important questions affecting the conditions of workers in areas under mandate have been considered by the Commission during the present session, and it has been decided that a particular reference should be made in the general report to one of these, namely, the possible danger to the health of workers which may arise when they are recruited from one area and transferred for the purposes of employment to another area where different climatic conditions may obtain.

The reports from the mandatory Powers which have been examined by the Commission during the previous and the present sessions offer sufficient evidence that detriment to the health of the workers very frequently accompanies their transference to other areas, and, from other sources, the Commission is aware that in the past the non-recognition of this danger has even led in some cases to a very rapid diminution of population. The reports for this year show that many of the Administrations are not unaware of the position, and in some cases in which the danger has manifested itself recruiting has been stopped. The reports, however, also show that a number of Administrations have found certain difficulties. The question is of general application ; it has been raised not only in connection with the areas under mandate in Africa but also in the Pacific.

For these reasons the Commission has decided to insert in its general report the following expression of its desire with regard to the matter:

> "The Commission has noted with much concern a number of references in the reports of this and the preceding years to the prejudicial effects upon the health of workers which appear sometimes to be experienced when they are recruited in one area for employment to another in which the climatic conditions appreciably differ. The Commission feels that this matter will engage the sympathetic attention of the mandatory Powers and the Administrations concerned."

222. The Frontier between the French and British Cameroons.

The Chairman said: An international agreement was signed at Paris by Lord Milner and the French Minister, M. Simon. That agreement divided the territories under French and British mandate comprising the former German Cameroons. As a result of an enquiry into the report presented by the British Government, the Mandates Commission questioned whether, with a view to safeguarding the interests of the natives, it would not be of use to draw the attention of the Council to the inconvenience which appeared to result from the division of the regions under British and French mandate.

The question of the northern frontier which runs across the territory of Yola is not a simple one, for it raises the problem of the ways of communication to the Cameroons and of the navigation of the Benue. The delimitation of the frontier to the south is less difficult. This frontier also cuts through zones occupied by different tribes.

The Commission has adopted the following recommendation:

> "The Permanent Mandates Commission,
>
> "Considering that, according to the report on the British Cameroons, the frontier between the British and French mandated territories has in certain places divided tribal areas; that this situation, if the complaints are justified, would be contrary to the interests of the natives:

"Recommends that the Council should, before considering any measures destined to obviate the above-mentioned disadvantages, request the French Government to collect information and to make known its views on the subject."

Have the accredited representatives of the mandatory Powers any observations to make ?

M. DUCHÊNE said: I have two observations to make. The first concerns the question raised in the British report on the Cameroons in relation to the frontier separating the territory under French mandate and the territory under British mandate. I believe I am right in saying that the French Government will most willingly undertake the enquiry requested. It should, however, be quite understood that, for the moment, the question of the advisability of changing a frontier of such importance should not be prejudged. In my opinion, it is necessary to await the judgment of the experts or commissioners of the two countries, entrusted with the duty of scudying or determining, according to previous agreements, the frontier-line, especially as regards the district of Bornu. Further, the French Government feels obliged to refer to a document mentioned in the British report, on which it bases its case. The question concerns an agreement, already about twenty years old, concluded with the chief of Bornu and another chief. As long as the French Government has not examined this document, it is not possible for it to form an opinion on the subject.

The CHAIRMAN, on behalf of the Commission, took note of M. Duchêne's statement, and thanked him for the promise of his good offices.

M. DUCHÊNE said: The second observation which I wish to make concerns the resolutions put forward by M. d'Andrade. These resolutions concern the case of a mandatory State helping the development of a mandated territory either by advances, subsidies or loans. The resolutions put, and put very clearly, the questions which would naturally arise in these circumstances. I am obliged, however, to note that, in the interrogative form in which they have been drafted, they do not supply an answer, at least for the moment. I desire to ask that the replies should be received as soon as possible, not only in order to facilitate the action of the mandatory State but in order to aid the development of the mandated territory. The question is of special interest to the French Government, which, as you know, desires, at the moment, to give its guarantee to a loan contracted by the territory of the Cameroons under French mandate.

The second question raised is of great interest also to the French Government. It is necessary to know whether, should it give its guarantee and should the guarantee have to be made effective, that is to say, have to be realised at any moment were the territory to be transferred elsewhere, the mandatory State would be covered and indemnified for the pecuniary sacrifice which it had consented to make ? This would appear to be a very legitimate request, but so long as no reply to the question raised has been received, and while the whole question rests in suspense, it will not be easy for the mandatory Power to take action. For this reason I wish to emphasise the point.

The CHAIRMAN said that the Commission had studied the question but it was for the Council rather than the Commission to settle the question. He hoped that it would be possible to clear up the question as quickly as possible in order that the French Government would know where it stood in regard to a question of great importance in the development of its mandated territories.

M. DUCHÊNE thanked the Chairman.

Sir F. LUGARD: I would like to make it perfectly clear that in raising the question of the Cameroons frontier we have not done so with any idea of enlarging the territory either of Great Britain or of France, but we have occupied ourselves solely with the interests of the natives and asked whether it is possible, by a readjustment of frontier, for the territory belonging to the different tribes not to be intersected by the boundary line.

The CHAIRMAN thanked the accredited representatives for the interest which they had shown and for their collaboration in the work of the Commission. He further thanked the Secretariat for its collaboration, which had greatly assisted the task of the Commission.

THIRTY-FIRST MEETING (Private)

held at Geneva on Wednesday, August 8th, 1923, at 3.15 p.m.

Present: All the members of the Commission except Count de Ballobar.

223. — Enquiry regarding the Bondelzwarts Rebellion of 1922: Draft Report to the Council.

The Chairman explained that M. Beau and he had established a skeleton report and that M. Orts had undertaken to continue this work and to present the report in a form which would enable the Commission usefully to discuss it. The essential thing was for the Commission to agree on the structure of the report, discussing it in one of the two languages, French or English. The Secretariat would ensure that the text adopted was printed and distributed to the members and that there was complete agreement between the two texts.

M. Rappard said that it was important for the task of the Secretariat to be defined in the sense indicated by the Chairman.

M. Orts declared that he had personally worked only upon the first part of the report.

M. Beau said he was not opposed to the Commission discussing the English text.

The Chairman asked M. Rappard to read the English text of the preamble of the draft report paragraph by paragraph.

M. d'Andrade said that he was in a very special position as regarded the discussion of this report. He, therefore, asked the Chairman to permit him to abstain from taking part in the debate, without his abstention implying agreement or disagreement with the conclusions of the report.

The Chairman said that this declaration would appear in the Minutes.

M. d'Andrade added that he reserved the right to ask for explanations in regard to the last part of the report when it came up for discussion.

Paragraphs 1 and 2 were adopted after careful revision.

M. Orts, referring to the end of the second sub-paragraph of paragraph 3 ("if Major Herbst had not thrown discredit on the whole enquiry by asserting that it was badly conducted," etc.) said he wished to verify from the final text of the Minutes the accuracy of the declarations attributed to Major Herbst in the draft report. He noted that Sir Edgar Walton and Major Herbst, in revising the passages in the Minutes in which their original declarations appeared, had corrected these declarations, so that there was not a contradiction but some discrepancy between the draft report and the Minutes on this precise point.

Following an exchange of views, the Commission recognised that the revision of Minutes with a view to a final text was a practice generally admitted and advisable, but that a revision of this kind should not result in a complete alteration of the text.

The Commission decided to substitute the words "giving to understand" for the word "asserting".

M. van Rees asked whether the two last sub-paragraphs of paragraph 3 were necessary, since they only repeated perhaps too insistently what had previously been said.

M. Orts thought, on the contrary, that the Commission should clearly indicate that it could not consider the fact of the Government of the Union having sent Major Herbst as a delegate to the Commission as equivalent to a report based on a final investigation. If this opinion of the Commission were not expressed sufficiently clearly, it would be reproached for not having formally put forward conclusions based on the declarations and documents brought before it by the representative of the Union.

The Chairman and Sir F. Lugard shared this opinion.

M. d'Andrade said that, if there were disagreement between himself and his colleagues, this was not because he feared to express an opinion which would be disagreeable for any member of

the Commission. He would venture to say that the principal reason for his present attitude was that the report might be summarised as asserting, on the one hand, that the Commission had not sufficient evidence before it and that the enquiry was inadequate, etc., and on the other, that it, nevertheless, passed judgment on a matter on which the evidence was admittedly incomplete.

M. ORTS replied that the evidence was certainly insufficient, but that, nevertheless, what there was of it enabled the Commission to pass judgment with certain reservations.

Paragraph 3 was adopted subject to various amendments of detail, as well as paragraph 4. Sub-paragraphs (a) and (b) of paragraph 5 were adopted with amendments of detail

M. ORTS, referring to sub-paragraph (*c*), observed that the text which he had drafted did not perhaps clearly indicate the reasons for which the majority of the Commission felt called upon to express an opinion. He referred for a final draft to M. van Rees.

M. van REES proposed the following text:

> "Finally, the majority of the members of the Permanent Mandates Commission, not wishing to refuse credence to the report of the Commission of Enquiry, considered that it would be desirable, in deference to the Assembly and the Council, that the Commission should give expression to its opinion in accordance with the expectations which were entertained. The majority of the members of the Commission desire, however, to emphasise the fact that this opinion is expressed with all reserve, in view of the insufficiency of the information at the Commission's disposal."

Sir F. LUGARD proposed the following text:

> "Finally, the majority of the Permanent Mandates Commission considers that the Assembly expects it to express an opinion as far as it is possible to do so. In doing so, it desires to emphasise as strongly as possible that, though its opinion is based solely on the facts so far as they have been disclosed, the statement of those facts emanates only from one of the parties concerned."

M. van REES said he thought it was necessary to indicate that, in referring to what Major Herbst had said on the subject, the Commission did not intend to withhold all credence from the report of the Commission of Enquiry.

The CHAIRMAN pointed out that the Commission would give greater force to its argument if it repeated that it had only had at its disposal the four documents mentioned.

After an exchange of views, *Sir F. Lugard accepted the text of M. van Rees, which was adopted by a majority of the Commission.*

The CHAIRMAN noted that a majority of the Commission had now agreed on the preamble of the report.

M. van REES desired to explain his point of view in regard to the remainder. He said he had no intention of criticising the report as it stood nor of making it milder in its form. He merely wished to change its arrangement. After the preamble, he proposed to insert the passage which in the text under discussion appeared under the heading of "Conclusions". Among these conclusions would appear the quotation taken from the report of the Commission of Enquiry (page 12, paragraph 48: "The Bondelzwarts are a people growing..... in the human quality of understanding"), as well as the passage in which the draft report expressed approval of this opinion of the Commission of Enquiry. The report would end with the passages relating to the conduct of the operations and the reply to the various points contained in the resolution of the Assembly. All that portion of the report concerning the tax on dogs, the measures concerning vagrancy, the question of branding-irons, etc. would be, if not entirely suppressed, at least extremely curtailed.

The essential point was for the Commission to associate itself from the outset with the fundamental principle expressed in the phrase used by the Commission of Enquiry. The Mandates Commission could only base its views upon the undisputed and indisputable facts and draw its conclusions from these facts, taking into account all that it had learnt from the documents before it and from additional verbal information.

The CHAIRMAN admitted that the portion appearing under the heading of "Conclusions" in the original text of the draft report might be transferred to the beginning of the report. This would enable the Commission at once to lay down the principle. He was not at present sure whether the report, after it had been rearranged in accordance with the proposals of M. van Rees, would exactly convey the feeling of the majority of the Commission. He felt it necessary, however, to state in the clearest possible manner that he could not accept any change in the text of the conclusions under discussion, which for him constituted the gospel and policy of the Permanent Mandates Commission, because, therein, the whole principles of the mandate had been set out. This statement must not in any way be abridged or mangled. He could not admit the possibility of its being said that the Commission was not preoccupied solely with the question whether or not the principles of the mandate had been followed. He was prepared to leave the rest to the Commission.

He thought, however, that the passage which M. van Rees desired to suppress should be retained, but, if necessary, shortened. This passage justified the disapproval of the Commission of a policy of force. Finally, he would remind the Commission that this part of the report was not the work of M. Orts.

M. BEAU said he did not raise any objections to the amendments proposed by M. van Rees. The only point which might arouse discussion was the suppression of the passage in question.

M. van REES explained that to him it seemed desirable that the conclusions should be expressed less forcibly.

M. d'ANDRADE said he would be able to associate himself with the views of his colleagues concerning the end of the report if it were less strongly expressed.

Sir F. LUGARD said he hesitated to pronounce an opinion, as he had not before him the report in the form in which M. van Rees desired to present it.

Following an exchange of views, *the Commission decided to examine the various points of the report in the order proposed by M. van Rees.*

Sir F. LUGARD, referring to the phrase in the conclusions: "the Bondelzwarts affair.... appears as an incident of colonial life such as occur in every African colony, and will still occur for a long time to come", said he was emphatically opposed to such a statement, which contained a charge against every nation possessing colonies in Africa and was, in any case, in no way pertinent to the subject under discussion and for which he did not see any necessity. All that could be said, if the Commission confined itself to South-West Africa, which alone was under consideration, was that incidents of this nature had occurred in this part of Africa under the German regime.

M. van REES proposed a more general formula, as follows:

"An incident of colonial life such as occurred and will occur" without mentioning Africa.

Sir F. LUGARD said he was not in agreement with the statement contained in the report that there was a contrast between the colonial regime and the new regime of the mandates. The principle on which the mandate system was based was not a new principle. It emphasised the fact that a mandatory State should consider itself as the protector of the natives, but it could not be said that the colonial Powers, whether France, Great Britain, or any other country, had devoted themselves solely to the material development of their colonies, to the neglect of the interests of the natives, who, on the contrary, had often come first. In the particular case under discussion, he thought it was not advisable to make any special reflections against the South African Union.

The CHAIRMAN pointed out that the whole question of principle seemed here to be at issue. It was not without reason that the Covenant had laid most particular stress upon the principle of a trust confided in the interests of the natives. Previous to the Covenant, this principle had never been defined in the text of any colonial or international law. To his mind, there was an essential difference between a direct colony, that is to say, a colony subject to the Government of the mother country, and a territory administered under mandate. If the Commission thought that it should not emphasise this contrast, it should, at any rate, in his view, emphasise a difference in degree. In making this difference stand out, the report would have logically to acknowledge the fact that the administrators of South-West Africa remained imbued with the principles of colonial administration though administering a territory under mandate.

M. d'ANDRADE said he agreed with the Chairman that the mandatory Powers had a more important duty to safeguard the welfare of the natives in territories under mandate than in colonial countries, precisely because the Covenant had entrusted them with these territories.

M. BEAU understood that the objection of Sir F. Lugard arose from the fact that Great Britain and France, as well as the other Powers with colonies, had endeavoured to carry out a policy of associating the natives with the development of their territory, and that it was not, therefore, possible to oppose a policy which had been inaugurated by the Covenant to the policy which they had hitherto followed.

The CHAIRMAN said he would like to remove all misunderstanding. He had not intended to assert that the French, English, Italian, or any other system of colonisation neglected the welfare of the natives.

On the contrary, his view was that during some considerable time very great progress had been made in every colonial system. His wish had merely been to express his conviction that the officials of the various South-West African administrations who came from their Civil Service were imbued with a spirit which was not the spirit of the mandates.

Sir F. LUGARD did not think there was any difference of principle between the Chairman and himself, provided that the text under discussion did not present the system hitherto followed in British and other colonies as being in contradiction with that laid down by the Covenant, but merely indicated that the Covenant had laid special emphasis on the primary interest of the natives.

He associated himself generally with a proposal put forward by M. Orts to amend the passage under discussion in order to conciliate the various points of view.

M. van REES offered, in collaboration with M. Orts, to draft a text, arranged as he had suggested, for submission to the Commission at a meeting to be held on the afternoon of the following day.

These proposals were accepted by the Commission.

M. ORTS said he was convinced that the Commission was virtually in agreement.

M. d'ANDRADE said that he was obliged to return at once to Lisbon. He presented his compliments and thanks to the Chairman and all his colleagues, to M. Rappard, and to all those who had helped the Commission in its work. He wished to forward to the Secretariat a declaration amending the text which appeared at the end of the draft report, for which he himself had been responsible.

The final portion of this declaration was as follows:

"Another member has summarised his views in the following form:

"1. Was there what may quite definitely be called a rebellion on the part of the Bondelzwarts and did they thus make themselves outlaws ? — *Yes.*

"2. Was it not the duty of the Administrator to take speedy measures to suppress the rebellion ? — *Yes; a rebellion and its suppression are unfortunately not uncommon incidents of colonial administration.*

"3. Did the Administrator neglect to take the necessary steps to secure a peaceful settlement ? — *No.*

"4. Was the suppression of the rebellion carried out with excessive and needless severity ? — *Not proved.*

"5. Did not the Administrator's action prevent the rebellion from spreading to other native tribes, and perhaps from having very serious consequences ? — *Very probably.*

"6. Had the natives any reasons for discontent ? — *Yes.*

"7. Would it not have been desirable to remove these reasons ? — *Certainly, but in most cases this could have been done only in course of time and by educating the natives, while taking special pains to eliminate the existing causes of friction between farmers and natives.*

"8. Were the causes of discontent sufficient to justify the rebellion? — *No. They were to receive careful consideration after the rebellion was suppressed.*

"9. Are there any administrative officials or other individuals whose conduct would appear to be reprehensible ? — *Probably.*

"10. Should they not be punished or dismissed? — *Certainly: but only when they have been proved guilty by further enquiry.*"

The CHAIRMAN, on behalf of the Commission, thanked M. d'Andrade for his active collaboration.

M. RAPPARD also thanked M. d'Andrade for the kind words which he had addressed to the Secretariat.

THIRTY-SECOND MEETING (Private)

held at Geneva on Thursday, August 9th, 1923, at 3.30 p.m.

Present: All the members of the Commission, except Count de Ballobar and M. d'Andrade.

224. Communication by the Chairman.

The Chairman informed the Commission that the fatigue occasioned by the meetings during the last three weeks following upon very heavy previous work prevented him, to his very great regret, from continuing to direct the discussions of the Commission. He therefore asked his colleague M. van Rees, Vice-Chairman of the Commission, to take the Chair. He added that the Bondelzwarts affair was of so great an importance, and the discussion on this question by the Commission had reached such a point, that he felt himself unable to take leave of his colleagues without putting before them in writing the conclusions which his own conscience had compelled him to reach on the information furnished to the Commission. He did not know what turn the discussion would take on this question, but requested that his views, which were defined in the document which he had the honour to present to the Commission, should form an integral part of the report which it had the duty to present to the Council.

The views of the Marquis Theodoli were as follows:

"The Bondelzwarts affair appears to me, taking as a basis the documents transmitted by the Government of the South African Union and the information supplied by its representative, to be an incident in the life of a colony similar in character to events which have occurred in the past, and which will occur again in the future. Each incident of this kind originates both from immediate and from indirect causes which, taken altogether, show the course which affairs are taking.

"To pass judgment on the question involves, in my opinion, making a comparison between this course of affairs as shown by the facts and the theoretical policy which should be adopted in accordance with general principles; and in passing judgment account will be taken of the divergence between the two.

"What is the line of conduct which should be followed according to general principles ?

"In a colony, this line is marked out by the necessity of assuring a peaceful development of colonial activities in collaboration with the native population. From this follows a certain conception of the relative importance of the various interests concerned and a guiding principle for the conduct of the administration.

"As far as the mandated territories are concerned, the Covenant of the League of Nations in general, and Article 22 in particular, has profoundly and substantially altered colonial law and colonial administration. The fundamental principle laid down is that the action, and consequently the law which governs that action, must consist in the aid which must be given to "peoples not yet able to stand by themselves under the strenuous conditions of the modern world" by "advanced nations who, by reason of their resources, their experience, or their geographical position, can best undertake this responsibility". The well-being and development of less advanced peoples forms a sacred mission for civilisation. This principle involves the adoption of an attitude to the various interests and administrative arrangements very different from the former. First in importance come the interests of the natives, secondly the interests of the whites. The interests of the whites should only be considered in relation to the direct or indirect exercise of protection over the natives. The incident of the Bondelzwarts took place in a mandated territory. The Permanent Mandates Commission, in my opinion, while being obliged to adapt its colonial experience to realising in practice the principle of the mandates, must also express its opinion, when called upon to do so, in the light of the special principle underlying this institution, and not according to the general principles of colonial administration.

"The Permanent Mandates Commission is agreed as to the relative nature of the factors on which it has to base its judgment; however incomplete they are, my fundamental impression is that the administration of the territory of South-West Africa, before, during and after the incident, seems above all to have been concerned with maintaining its own authority in defence of the interests of the minority consisting of the white population.

"The Administration ought, on the contrary, in my opinion, to have carried on from the beginning a policy and an administrative practice calculated to lessen the racial prejudice, which in those countries has always been the fundamental cause of the hostility which has invariably existed between the native population and the whites.

"I think, therefore, that the Administration has pursued a policy of force rather than of persuasion, and, further, that this policy has always been conceived and applied in the interests of the colonists rather than in the interests of the natives.

"I admit that circumstances in the past, special conditions on the spot, and the special characteristics of the population, may make the task of the mandatory Power a very difficult one. My conscience, however, will not allow me to admit that these difficulties will justify a departure from the principle in the mandate, a departure which, instead of appearing to be a demonstration of strength and superiority, might be considered an indication of weakness and incapacity in the exercise of a mission which is only a lofty one if its true spirit is respected."

M. Beau thought that he would not be simply expressing only his personal opinion but also that of some of his colleagues, who would undoubtedly confirm it, when he said that the decision which the Chairman had just communicated to the Commission to cease to take part in its work during the remainder of the session would be a cause of great regret to all the members of the Commission, since, up to the moment and for the past three years, he had directed its discussions with an activity, a competence, and a courtesy beyond praise. Further, he himself had admitted that the question on which the Commission still had to take a decision was one of the gravest questions ever submitted to it. The effect, even on the future of the Commission, would be very great, according as to whether the members took a decision with which no fault could be found, or whether their decision became a subject of public comment, criticism and censure.

The method suggested by the Chairman of presenting his personal opinion (and the Chairman's opinion made a great impression in view of his status and of his personal experience in colonial administration) was of such a kind as to weaken the force of whatever decision the Mandates Commission might take. He therefore appealed to the devotion of the Chairman, a devotion which was very necessary in directing a debate such as the one upon which the Commission was at the moment engaged throughout all the difficulties which inevitably arose in an affair of this kind. He appealed to his devotion and asked him to continue to collaborate to the end with the Commission so that it should be able to fuse, as it had been attempting to do for two days, the very generous ideas which the Chairman had expressed in his memorandum, and those which would result from the exchange of views about to take place, and which would all without any doubt be influenced by the principles which he had put forward so strikingly in the declaration which he had just read.

M. Beau hoped, therefore, that the Chairman would once more continue to work with his colleagues in drafting the final decision on this question, which was of so delicate a nature, and or which, in his absence, they would find it very difficult to find a solution which was likely to be accepted unanimously.

M. Orts entirely associated himself with M. Beau's remarks and was sure that they expressed the feelings of each of his colleagues. He wished, however, to make one observation to the Chairman. The statement which the Chairman had just made allowed it to be supposed that there was in the Commission some disagreement on an important point, for example, a question of principle. He wished to observe that disagreement could only exist if profound and irreconcileable differences of opinion arose on a definitive text. Nothing of this nature had occurred up to the present since the Commission had not even begun to discuss the text dealing with the questions of principle which the Chairman had just raised. So much was this so that yesterday M. van Rees and himself had been entrusted with the duty of making a draft for the Commission to work upon.

He added that personally he agreed with the Chairman in throwing into relief as the Chairman had done, the spirit of the mandates system. But in the statement which he had just read the President had made use of certain expressions which were already in the first draft and which he personally would regret to see incorporated in the definitive text of the report. For example, the following phrase: "First in importance come the interests of the natives, secondly the interests of the whites". He himself would be greatly averse to introducing this sentence into the report wherein it would appear as the enunciation of a general principle for which the Commission as a whole, the minority as well as the majority, would take the responsibility. If reference were made to the Covenant or to the mandate it could be seen that the text of them authorised no such inference. What were the actual words of the Covenant: "the well-being and development of such peoples form a sacred trust of civilisation". Nothing more. As to the mandate for South-West Africa, it confined itself to defining as follows the duty of the mandatory Power as regards the natives: "The mandatory shall promote to the utmost the material and moral well-being and the assured progress of the inhabitants of the territory subject to the present mandate".

The Commission should beware of stating opinions not justified by existing texts, otherwise the mandatory Power could say with justice: "Where did you find that ? Did you find it in the Covenant, the only document which, together with mandates, you are justified in indicating ? Or have you found any provision whatever which would allow you to state that in the territories in question the whole pre-occupation of the administration should be in the first instance for the blacks, and that care for the prosperity of the European community should only be a secondary consideration ?"

M. Orts wished the Chairman to reserve his statement, and to keep for himself freedom to consider the question whether he would maintain it or withdraw it after the discussion to take place on the same afternoon, that was to say, after the Commission had prepared a definitive text. Up to the moment, however, there was no disagreement in the Commission, and the impression should not be given that there was any disagreement. He personally hoped that there would be none, and that of a divergence of views arose it mould only be one regarding words.

M. van Rees stated that, in view of what M. Orts and M. Beau had said, there was not much for him to add. He associated himself absolutely and completely with the statements made by these two members of the Commission ; for his part, he had learned of the Chairman's resolution with the most profound regret, and had wondered whether, in fact, the differences of opinion were of such a nature that it was absolutely necessary for the distinguished Chairman of the Commission to leave the Commission just at the end of the current, most difficult, session. Fundamentally, the ideas and conclusions at which the Chairman had arrived were, save for the words, the same as those of his colleagues and ran upon parallel lines. He did not understand, and nobody outside the Commission, neither the general public, the Council or the Assembly would be able to understand what was happening. He urged the Chairman to reflect once more, to wait for the discussion which was to take place in the afternoon, and to see what would come of it. He might thereafter maintain or withdraw his decision according to his views.

Sir F. Lugard also wished to state how much he regretted the reasons which had led the Chairman to take his decision. He thanked the Chairman personally for the courtesy and competence with which he had conducted a most difficult discussion, and he most earnestly hoped that it would be possible for him to conduct the discussion to a close. He was unable unreservedly to associate himself with the whole phraseology employed by the Chairman in his memorandum. He hoped that an agreement might be possible.

The Chairman stated that it was not without emotion that he had listened to the words spoken to him. He wished to emphasise once more the fact that, as regarded the present subject of debate, the divergencies between the Commission and himself were concerned not with words but with substance.

M. Orts wished to make the following two points clear:

(1) It would only be possible to establish the fact whether or no there was agreement after reading the text which M. van Rees and himself had been required to draw up. Until that moment there was no disagreement.

(2) On the hypothesis that the Chairman, who would find in the report whole sentences out of the declaration which he had just read, would not be satisfied because he considered that there were some further sentences which ought to be introduced in the report in order the better to express what he had in mind, a statement setting out clearly the Chairman's personal point of view could be annexed to the report.

The Chairman replied that the mere fact that the text of the report contained certain words or even sentences of his statement would not suffice for him to consider the report as a faithful reproduction of his ideas, which he thought he had expressed in a clear and definite form. He maintained his point of view. It was inconceivable that the illustrious authors of the Covenant had produced a work which was anything but an entire departure from precedent. The spirit of the mandates required as a fundamental principle the material and moral progress of the natives ; the white population ought only to be considered in so far as it assisted in achieving this progress. He thanked his colleagues for the kind words they had spoken as regarded himself. He maintained his position.

(At this point M. van Rees took the Chair.)

225. General Report of the Commission to the Council.

M. Rappard read a draft general report of the Commission to the Council.

The text of this report was *adopted* (Annex 13) with certain minor modifications, and a discussion between the members of the Commission took place on three particular points:

1. *Communication to the Mandatory Powers of the Commission's Report to the Council.*

The Chairman questioned whether the Commission had the right to submit the report on the Bondelzwarts affair to the mandatory Power before sending it to the Council.

M. Rappard recalled the fact that this procedure was obligatory in the case of the annual reports, and it would not appear that the procedure should be any different on this occasion. The mandatory Power might consider itself slighted if its representative was not allowed to furnish the Council with his views on the Commission's report.

2. *Representation of the Commission at the Sessions of the Council and the Assembly during Discussions concerning the Question of Mandates.*

The Commission had previously decided to express a wish that it might be allowed to be heard before the Council, the Assembly, or the Committees of the Assembly when the question of mandates was under discussion. The draft report read by M. Rappard contained an expression of opinion in this sense.

Sir F. LUGARD reminded the Commission of what had been agreed, namely, that the Commission should be represented on these occasions by its Chairman who, at his wish, would be accompanied by the Vice-Chairman.

The CHAIRMAN did not think that one single member would be in a position to furnish valuable information on every conceivable question. On the other hand, it would not be practicable to draw up in advance a list of the questions with an indication of the various members of the Commission who had studied them specially. In view of the fact that M. Rappard was present at the Council sessions, it would be sufficient, in case of necessity, for him to designate those members of the Commission who might be able to give the most valuable information. He personally did not consider himself qualified to reply on all possible questions; the more so because he had not always been absolutely in agreement with his colleagues — for example, on the subject of loans and, above all, on the subject of advances. He proposed, therefore, that the recommendation in question should be suppressed.

M. YANAGHITA, M. BEAU and M. ORTS maintained their view that it was for the Chairman to speak for the Commission.

Sir F. LUGARD thought that, in view of the full manner in which several chapters of the Commission's report were set out, the Assembly or the Council would have very little sypplementary information to ask for; if the case arose, replies could be furnished in writing.

M. RAPPARD recalled the fact that the custom was for each Advisory Commission of the League to be represented at Geneva during Council or Assembly sessions, when the questions with which they were concerned were under discussion.

The Commission decided that its report should be submitted to the Council by the Chairman or, failing the Chairman, by any substitute whom he might designate, and that if such a desire were expressed by the Council or by the Assembly, the Chairman should hold himself at the disposal of the Council or Assembly in order to reply on questions concerning mandates.

3. *State Domain.*

M. RAPPARD asked the Chairman if it would be desirable to insert in the report the chapter relative to State domain.

The CHAIRMAN replied in the affirmative. The report would explain that the subject had been discussed, that the Commission had thought it necessary to consult the Legal Section of the Secretariat, and that the question would be taken up again later.

226. AMENDMENTS TO THE RULES OF PROCEDURE.

1. *Date of the Regular Session.*

After discussion, the Commission *decided* on the proposal of Sir F. Lugard *that the Chairman should fix for the regular session a date as near as possible to the middle of June.*

2. *Annual Reports.*

The annual reports of the mandatory Powers should reach the Commission before May 15th.

3. *The number of copies of the reports.*

The mandatory Powers were to be asked to furnish the Secretariat with 100 copies of their annual reports.

4. *Plenary Meeting.*

After discussion the Commission *decided that, in accordance with the opinion expressed by the majority of the members, it would hold a plenary meeting.* The majority of the Commission would also decide whether the proceedings of this plenary meeting and of the other meetings should be public or not.

227. ENQUIRY REGARDING THE BONDELZWARTS REBELLION OF 1922.

Draft Report to the Council (continued).

The CHAIRMAN reminded the Commission that it had agreed on the previous evening as to the first four paragraphs of this report. M. Orts and himself had since that meeting drawn up for

the rest of the report, with the exception of the last paragraph, a text based upon the Commission's discussions, and involving some new modifications in the form of the report.

M. ORTS explained that in the report of the previous day, M. d'Andrade's opinion appeared at the end of the report. It was now inserted in paragraph 5, so that this paragraph now contained the three opinions which had been put forward in the Commission.

The Commission considered the various paragraphs of the report point by point (in the English text).

Sub-paragraphs (*a*) and (*b*) of paragraph 5 were *adopted*, with certain minor modifications.

On the subject of sub-paragraph (*b*), the CHAIRMAN wondered whether it would not be advisable to consider in this connection the statement of the Marquis Theodoli, in view of the fact that the Marquis had expressed the wish to have his statement inserted in the actual text of the report.

M. ORTS stated that he still maintained the hope that the Marquis Theodoli would find himself able to agree to the text of the majority of the Commission.

Sir F. LUGARD suggested that the Commission should provisionally reserve this point and return to it if necessary.

This was agreed.

Sub-paragraph (*c*) was *adopted*, with certain minor modifications.

Sir F. LUGARD proposed the addition, between this sub-paragraph and paragraph 6, of a clause expressing confidence that the mandatory Power would not be less anxious than the Commission to give effect to the principles of the mandate, and would recognise that in instances to which the Commission had had occasion to refer, these principles had not been fully upheld.

The text proposed by Sir F. Lugard was approved, with certain slight amendments.

Paragraph 6 was *adopted*, with certain modifications intended chiefly to secure the insertion in it of exact references to the texts of the Covenant and of the C mandate.

As regarded paragraph 7, Sir F. LUGARD considered that the quotation from the majority report of the Commission of Enquiry would seem to imply that the Mandates Commission identified itself with the views of the majority of the Commission of Enquiry.

M. BEAU agreed that this was so.

The CHAIRMAN and M. ORTS did not agree.

Sir F. LUGARD was of the general opinion that the Commission's argument would gain in force if it dealt very briefly with, or even omitted the points which had led to divergencies in the Commission of Enquiry, *e.g.*, the question of the dog tax, etc.

It was preferable to confine the statement to facts which had not been opposed, which facts could be found in sufficient number either in the report of the Commission of Enquiry or in the statements of Major Herbst, *e.g.*, the undeniable spirit of mistrust between the two races, or the sending to the Bondelzwarts of minor police officials, who had always been unpopular with the natives, instead of a high civic official, such as the Secretary to the Administration (Major Herbst), or the Head of the Native Affairs Department (Major Manning). Such civic officials, Major Herbst had said, were always received with courtesy and loyalty.

M. BEAU agreed with Sir F. Lugard's view.

The CHAIRMAN was afraid that the procedure suggested by Sir F. Lugard would result in the submission of an incomplete report.

Sir F. LUGARD proposed that stress should be laid on the particular points concerning which there was no disagreement, and that the other points should be put in an annex.

The CHAIRMAN stated that he had had the intention of adding a certain number of footnotes referring to various passages in the Minutes which contained the statements of Major Herbst.

M. ORTS pointed out that this procedure was often adopted. Moreover, the reading of these passages in the Minutes would be conclusive.

The CHAIRMAN thought that it would be advisable to print the report of the Bondelzwarts affair separately, with extracts from the Minutes attached to it.

M. RAPPARD explained that this procedure would overlap with the Commission's report to the Council, which would contain, not only the chapter on the Bondelzwarts affair, but also, as usual, the Minutes of all the meetings of the Commission.

The Commission then considered the passage of the report concerning the question of the dog tax. The whole of this passage was subjected to a careful re-drafting and curtailment based upon the definitive text of the Minutes of the Mandates Commission, and in certain places following the report of the Commission of Enquiry. The necessary references were made by means of foot-notes.

THIRTY-THIRD MEETING (Private)

held at Geneva on Friday, August 10th, 1923, at 10 a.m.

M. van Rees, Vice-Chairman, in the Chair.

Present : All the members of the Commission except the Marquis Theodoli, M. d'Andrade and Count de Ballobar.

228. Trade Schools in the Island of Nauru.

M. Rappard informed the Commission that he had received a letter from Sir Joseph Cook, regarding the trade schools in the island of Nauru.

The Commission decided that this letter should be annexed to the Minutes of the session (Annex 14).

229. Enquiry Regarding the Bondelzwarts Rebellion of 1922 *(continued).*

Draft Report to the Council.

The Commission continued the examination of the draft report.

During the discussion various amendments to the original text were proposed, especially by Sir F. Lugard, M. Orts and the Chairman. The amendments put forward by Sir F. Lugard had for their object to reduce or even entirely to eliminate detailed criticism, especially regarding matters on which there was a conflict of local opinion, confining criticism rather to the essential facts and principles which were not matters of controversy.

M. Orts proposed that it should be emphasised that, basing his action on the terms of the law on vagrancy, the Administrator could oblige the natives to work for an individual master.

The Chairman wished that clear mention might be made of the fact that there had been 140 prosecutions connected with the dog tax and that in more than 100 cases a penalty had been inflicted.

After an exchange of views, these various amendments were finally drafted and the Commission drew up the final text of its report to the Council (Annex 8 *b*).

The Commission decided to insert in the report a clause to the effect that its Chairman, the Marquis Theodoli, had been prevented from attending the end of the session, but had presented his views in a note annexed to the report.

230. Division of the Commission's Work.

The Commission divided its work as follows:—

General Administration (with the exception of judicial matters): M. van Rees.
Spirituous Liquors and Drugs, Judicial matters: Sir F. Lugard.
Traffic in Arms and Military Clauses: M. Beau.
Liberty of Conscience and Public Health: Count de Ballobar.
Economic Equality: M. Orts.
Education: Mme. Bugge-Wicksell.
Public Finance: The Marquis Theodoli (Chairman).
Land Tenure: M. van Rees.
Moral, Social and Material Welfare: M. Yanaghita and Sir F. Lugard.
Demographical Statistics: M. Yanaghita.
Slavery and Labour: Mr. Grimshaw.
Revision of the Questionnaire: Sir F. Lugard.

It was decided that the members of the Commission should not by required to draw up memoranda on those questions reserved for their individual examination.

The Commission decided to discontinue for the future the preliminary examination of the reports of the mandatory Powers, and it was understood that, as far as possible, the first reports to be examined should be those of the accredited representatives living in Paris.

After the examination of the reports of the mandatory Powers, *the Commission decided*, in principle, to devote some meetings to the study of one or two of the principal questions raised. At the next session the Commission would have to examine the two important questions of land tenure and the revision of the questionnaire.

The Commission further decided, on the proposal of the Chairman, to entrust to Sub-Committees the examination of any questions which arose during the course of the session. This Sub-Committee would make a report to the full committee. *It was decided* that, as far as possible, the session should not last longer than a fortnight. Questions which could not be examined during that period could be referred to an extraordinary meeting.

The CHAIRMAN warmly thanked the members present at the meeting and M. Rappard, and all his staff of both sexes, for the work which they had done.

M. RAPPARD thanked the Chairman for his remarks and the whole Commission for the kindness which it had always shown to the Secretariat.

The CHAIRMAN declared the third session of the Permanent Mandates Commission to be at an end.