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THE REHOBOTH COMMUNITY OF SOUTH WEST AFRICA

(Memorandum prepared by the Secretariat at the request of
the Committee on South West Africa)

Origin and background

1. The Rehoboth Community resides in South West Africa in an area known as the Rehoboth Gebiet, which is located inside the administrative district of Rehoboth. The original Community consisted of a number of families who migrated from the Cape Colony between 1863 and 1868. They were the descendants of European farmers by African women. Dissatisfied with life in the Cape Colony, they decided to find new homes. Having moved among the various Hottentot tribes who inhabited the southern part of what is now known as South West Africa, they settled in the district of Rehoboth with the permission of the Hottentot chief, Abram Zwartbooi. They established themselves as an independent community and drew up a constitution for their own government.

2. The constitution, first drafted in 1868, was revised in 1872^{1/} and renewed and amended in 1874^{2/}. As revised in 1872, the constitution consisted of thirty articles dealing with the election of the Chief, his two Councillors, the election of three Volksraad members as representing the people, rights of citizenship and franchise, and the mode by which laws were to be made and promulgated. As revised in 1874, the constitution introduced articles, inter alia, recognizing the appointment by the resident burghers of H. van Wyk as Captain for an indefinite

1/ Report of the Rehoboth Commission, U.G. 41-126, pp. 79-81.

2/ Ibid., pp. 85-90.

period; authorizing the burghers to propose ten councillors, of whom four receiving the majority of votes were to be appointed by the Captain as his councillors; and providing that any councillor or the Captain who neglected his prescribed duties should lose his post if he refused to be summoned to give the reason for his neglect. Articles 13 to 64 recapitulated all other laws for the Gebiet (for the text of the 1872 and 1874 constitutions, see Annex I).

Relations with Germany

3. Until 1884 the Rehobothians led an independent existence but, in that year, one of the representatives of the German Government, who were attempting to obtain signatures from the various chiefs in South West Africa for treaties of friendship and protection, concluded an agreement with the Captain of the Rehoboth Community. This agreement was confirmed by a Treaty of Protection and Friendship^{3/} concluded on 15 September 1885 between Germany and the Rehoboth Community. The treaty, concluded as an agreement between two Governments, contained seven articles, whereby Germany agreed to assume the protection of the Rehoboth Community, while recognizing the rights and the freedom which the Rehobothians had established for themselves. Germany undertook to respect all existing treaties concluded between the Rehoboth Community and other nations and to respect the right of the Captain to collect the taxes and revenue to which he was entitled in terms of the laws and customs of his country. German nationals and others under German protection living in the Rehoboth Territory were to respect its laws and customs and to pay taxes to the Captain.

4. For their part, the Rehobothians agreed, inter alia, to refrain from disposing of any of their lands and from concluding any future treaties without the consent of the German Government. Furthermore, the Rehobothians were guaranteed exclusive jurisdiction in civil and criminal cases involving their own nationals, and provision was made for the trial of cases involving other nationals. Finally, the treaty provided that the Captain would assist as far as possible in the preservation of peace in Great Namaqualand and the adjoining countries (for the text of this treaty, see Annex II).

^{3/} Report of the Rehoboth Commission, U.G. 41-'26, pp. 98-99.

5. This treaty remained in force until 22 April 1915 when the German Government abrogated it. Although relations between the Community and the German administration were generally harmonious prior to 1914, relations between them began to deteriorate due to the reluctance of the Rehobothians to take up arms against the Union forces. The question of participation was brought to a head early in 1915 when they refused to provide men to guard captured Union prisoners. The Germans retaliated by seizing and destroying livestock and property. Those members of the Community who were in possession of arms mobilized and considerable fighting and bloodshed developed before the Germans evacuated the district before the advance of the Union forces.

Administration by the Union of South Africa

6. After the occupation of the territory by the Union of South Africa certain undertakings were given to the Community assuring it of the same constitutional position it had enjoyed during the German administration. Following the assumption of administration under the Mandate, the Administrator of the Territory, as representing the Government of the Union of South Africa, and the Captain and members of the Raad, as representing the Rehoboth Community, entered into an agreement on 17 August 1923 which in principle incorporated the main provisions of the former treaty with Germany. This agreement was embodied in Proclamation No. 28 of 28 September 1923^{4/} (for the text of this Agreement, see Annex III).

7. Almost immediately following the signing of the new agreement, opposition thereto by members of the Rehoboth Community who had advocated independence began to make itself felt. Election of a new Raad early in 1924 revealed that a deep rift existed in the Community and matters became serious when the old Raad refused to resign. Since neither the new nor the old Raad were capable of functioning effectively, the Mandatory Power issued Proclamation No. 31 of 1924^{5/}

+/ Report of the Rehoboth Commission, U.G. 41-126, pp. 100-103; The Laws of South West Africa, 1923, pp. 52-62; Report of the Administrator of South West Africa for the year 1923, p. 6.

/ The Laws of South West Africa, 1924, pp. 172-176; Report of the Administrator of South West Africa for the year 1924, p. 11.

(for the text of which, see Annex IV), whereby the Captain of the Raad, the courts of the Community and any officials appointed by the Raad were temporarily dispensed with^{6/} and their powers transferred to the Magistrate and his Court.^{7/} Another election in January 1925 did not improve the confused state of affairs and the Mandatory Power warned the Community that unless the Cattle Branding Law of 1923 was complied with by 1 March 1925, prosecutions would be instituted. It was indicated by the Mandatory Power in its annual report^{8/} that the Cattle Branding Law was selected merely as being most convenient to bring the question of law enforcement with respect to Proclamation No. 31 of 1924 to an issue. When

6/ Mention should be made here that in response to the wishes of a section of the Rehoboth Community for the independence of the pre-1924 period, a commission of two magistrates was appointed in 1939 to investigate and report upon the capability of the Rehobothians to govern themselves and the possibility of restoring self-government. The Commission found that the vast majority of the Rehobothians did not possess the qualities or educational qualifications required for the Kapteinskap and the Magistracy which were provided in the pre-1924 system of local government. It held that if a Kaptein were elected from among one of the three religious denominations to which the Rehobothians belonged, the adherents of the other two would oppose the appointment; and that no justification could be found for changing the present judicial system established under Proclamation No. 9 of 1928 (see below). In conclusion, it stated that the re-establishment of the posts referred to above could not be recommended because such a course would be detrimental to the interests of the Community (Report on the Administration of South West Africa for the year 1939, p. 184).

7/ In this connexion, it should be noted that the 1923 Agreement provided, inter alia, that the Administrator, after consultation with the Raad, had the power to legislate for the Gebiet. From and after the taking effect of Proclamation No. 31 of 1924, the above-mentioned provision appeared to have been interpreted to mean that the Administrator was required only to consult with the Magistrate before making laws for the Gebiet. Examples are to be found in Proclamations Nos. 9 of 1928, 5 of 1935, 20 of 1935, 16 of 1938, 22 of 1941, 18 of 1946 and 36 of 1954, published in The Laws of South West Africa, 1928, 1935, 1938, 1941 and 1946, and the Official Gazette of South West Africa, No. 1844, 1954.

8/ Report of the Administrator of South West Africa for the year 1924, p.13.

the Community refused to comply and members of the Community assembled in the village of Rehoboth the Mandatory Power declared martial law in the Community. Since police forces in the area were deemed inadequate to deal with the situation, the Mandatory Power sent a Defence Force and three airplanes into the district. When an order to the Captain and the Raad to surrender was not complied with, the forces of the Mandatory Power entered the village on 5 April 1925 and disarmed the population.

The de Villiers Report

8. Following these events the Mandatory Power, on 14 May 1925, appointed Justice de Villiers to enquire into the situation and to report his findings to that Government. Specifically, seven points of enquiry were referred to him covering boundary questions, alienation of land, matters of taxation, political position and encroachment upon the rights before and after Proclamation No. 28 of 1923 as concerned the Rehoboth Community. On 20 September 1926 a lengthy report^{9/} was submitted by Justice de Villiers to the Union Government, which subsequently transmitted it to the Permanent Mandates Commission for consideration. The Commission received the report at its twelfth session and a note dated 17 October 1927 prepared for the use of a projected sub-committee which was to deal with the matter indicated inter alia that "the conclusions and recommendations of the Commissioner are nowhere concisely summarized" and that "it had been forwarded to the Permanent Mandates Commission without any indication by the Mandatory Power as to whether the conclusions and recommendations of its Commissioner are accepted or not." The report concluded that the complaints by the Rehoboth Community concerning alienation of land without compensation did not apply since the land had already been appropriated by the Germans. It also held

^{9/} Report of the Rehoboth Commission, U.G.41-'26.

that promises made to the Community after the occupation by Union forces not to deprive it of its independence did not mean a guarantee of sovereignty. It recommended that alienation of land to Europeans or Hereros should be prohibited,^{10/} and considered the boundaries fair and sound.

Rehoboth Boundary Commission

9. In making his own recommendation on boundary questions, Justice de Villiers had taken into consideration the findings of the Boundary Commission (the Drew Commission) which was appointed in 1922 by the Administrator of South West Africa to enquire into and report upon the question of boundary and land disputes between the Raad and the German Government, and which consisted of representatives of the Administration as well as a representative of the Raad. The Drew Commission, with whose views Justice de Villiers expressed his general agreement, issued a report on 16 May 1922.^{11/}

10. According to this report, the Rehobothians laid claim to a tract of country more than twice the size of the territory occupied by them under German rule, which included a large number of privately owned farms as well as a vast extent of Crown land. They put forward a treaty signed by Maharero as being the title on which they based their claim. On this point, the Commission felt that the treaty might be evidence of a grant of land to the Rehobothians by the Herero Chief but not of the boundaries of the area which they claimed. In the absence of any evidence among the German records, this claim was regarded as having no practical

10/ It may be noted here that this recommendation was taken into consideration by a Commission of Enquiry, generally referred to as the Long-Term Agricultural Policy Commission, which was appointed in 1948 by the Administrator of South West Africa to enquire into and make recommendations on questions concerning production and marketing of farm products as well as other closely related matters. This Commission found, *inter alia*, that the great majority of the Rehobothians had not made, and did not appear able to make, a success of farming in one of the best and most productive regions of the Territory. It therefore recommended that any burgher who is the registered owner of a farm in the Rehoboth Gebiet should be permitted to sell his farm (on his own volition) to the Government; that early steps be taken to train the burghers to make the best economic use of their land; and that the practice by the burghers of leasing grazing on their farms to non-burghers be discouraged (Report of the Long-Term Agricultural Policy Commission, pp. 1, 23-24, 66 and 71).

11/ Report of the Rehoboth Commission, U.G.41-'26, pp. 165-168.

significance and should therefore not be taken into consideration. The Commission further stated that it would be extremely unsatisfactory at this stage to go into questions which had their origin so far back in the past, and that there was not a single instance where the Rehobothians signed a boundary agreement with the German Government under protest. In view of the fact that the boundary of the Rehoboth Gebiet as described in the proposed agreement between the present Administration and the Raad was not only fixed by mutual arrangement between the Raad and the German Government but also was in existence and unchanged at the time of the occupation of this territory by the Union troops, the Commission was of the opinion that the said boundary might be definitely accepted as defining the limits of the Gebiet.

11. The Rehobothians also protested before the Drew Commission that the German Government had unlawfully taken from them certain land and buildings situated within the present boundaries of the Gebiet. Their claims were numbered 1 to 9 in the proceedings, apart from the one (claim No. 10) made at the final meeting of the Commission. As regards Nos. 1 to 5 (farms at Gohaganas and four other places) and 7 (Rehoboth Branch Line), the conclusions of the members of the Commission, including the Rehoboth representative, were reached unanimously.

12. With regard to No. 6 (Railway track), the Commission found that a settlement was reached when the late German Administration granted a sum of 1,500 marks as compensation and considered that as the Raad had signed the agreement concerning this compensation they should not now raise the question. In regard to No. 8 (Houses and Land), according to the Report of the Drew Commission, the Rehobothians claimed by right of conquest certain buildings and the farms Zandputz, Areb and Bullsport in the Gebiet owned by the German Government when hostilities broke out in 1915. The Report further stated that the Rehobothians never at any time exercised effective occupation of this property and concluded that there was no obligation upon the part of the present Administration as successor to the previous Government to pay the debts due by it. With reference to No. 9 (Isabis), it appeared from the records at the disposal of the Commission that the German

Government ultimately admitted that approximately 2,300 hectares of the Gebiet (Doornboom Vley) had been surveyed into the farm Isabis and agreed to compensate the Rehobothians by paying them the sum of 690 M. and giving them ground elsewhere. The Commission pointed out that the money was never paid and the ground which the German Government selected for the purpose stated above was that adjoining Heigamas, an area which was then already under dispute. The Commission therefore found that no compensation was received by the Rehoboth Community for 2,300 hectares in dispute at Isabis, an omission for which the present Administration could not accept responsibility and was unable to redress.^{12/} In regard to No. 10 (Farm Khos), a claim involving 4,549 hectares, the finding of the Commission was that the farm was registered on 24 April 1915 with an extent of 11,549 hectares; the notice calling for objections was advertised up to 3 February 1915 and a certificate of Substituted Title was issued to the owner, Carl Peeken, on 22 September 1920. The Commission pointed out that the claim of the Rehoboth Community had not been secured and that there was little or no chance of recovering the debt.

13. Regarding farms sold to Europeans in respect of which certain payments were still to be made to the Raad, the Commission was of the opinion that the present Administration should, as far as possible, assist in the matter of recovering such outstanding amounts, plus interest on behalf of the Rehoboth Community, without, however, accepting responsibility in the event of non-payment by the debtors.

14. With a view to compensating the Community for any possible mistakes in respect of the boundary, the Commission recommended as an act of grace that the farm Zandputz be given to the Community, and that the Government relinquish all claim to the Government buildings erected and existing on the farms Schlip and Gosoribis in favour of the Raad.

12/ Justice de Villiers stated in his report, however, that the German Government agreed to settle the question of Isabis by paying over to Rehobothians the sum of 690 M. and further allowing their claim to 3,000 hectares adjoining Heigamas, with permission to sell this piece of land to farmer Riep. This settlement had been accepted by the Rehobothians and the land handed over to them but there was no proof that the money was paid (Report of the Rehoboth Commission, U.G.41-'26, p. 68).

15. Opposition to the findings of the Commission was expressed by the Rehoboth representative in a minority report issued on 13 May 1922.^{13/} Dealing with the boundaries of the Gebiet, he held that the case did not appear to be one falling within the jurisdiction of the present Administration, because, according to article 51 of the Peace Treaty, the Allied Powers had gone into matters much more antiquated than this dispute and, therefore, it would be the duty of the Raad to lay their claims before these Powers. In connexion with the regulating of boundaries, he referred, inter alia, to the statement by a German Governor on the boundary transactions in 1898 to the effect that nobody was allowed to say anything about the boundary question.

16. With reference to the claims of the Raad to certain land and buildings lying within the Gebiet, he was unable to agree with the views of the Commission as far as Nos. 6 and 8 to 10 were concerned. In the case of No. 6, he maintained that it was necessary for the Government to take into account the fact that the sum of £75 was an unreasonable price for such a large piece of land, viz. 14,000 hectares. In regard to No. 8, he stated that the claim not only included victory rights but also compensation; that the houses mentioned were built on Rehoboth land by the German Government without authority; and that the farms in question were occupied by the Rehobothians before the Union troops took possession of them. He therefore considered that this matter demanded the earnest attention of the Government. With regard to No. 9, he pointed out that the dispute over farm Doornboom Vley was not settled though the late German Government recognized that farm as belonging to the Rehobothians. He considered it necessary that the present Administration should have the matter investigated by a surveyor. As regards No. 10, his opinion was that it was inconsistent with the civilized laws that a farm should be registered when an interdict against registration had been issued in 1913. He observed that the farm was registered on 24 April 1915, after hostilities had already taken place between the Rehobothians and the Germans. He also questioned the possibility of conducting such civil cases during a period when martial law was in full operation. He

13/ Report of the Rehoboth Commission, U.G. 41-'26, pp. 181-182.

believed that this matter should therefore receive the attention of the Government, and the registration of this farm (24 September 1920) should be cancelled.

17. In this connexion, it is worth noting that since the publication of the De Villiers Report in 1926, comparatively minor boundary alterations, as announced in Proclamations Nos. 9 of 1928, 22 of 1941 and 36 of 1954, followed the transfer of the rights of ownership or occupancy of lands between Europeans and Rehobothians. So far there has been no indication that the farms in dispute at the time of investigation by the Drew Commission were included in the Gebiet. On the contrary, at least three of them were, in fact, excluded from it, namely, Areb, Bullsport and Isabis.

18. The following data¹⁴ on the extent of the Gebiet may also be of interest:

| <u>Year</u> | <u>Extent (hectares)</u> |
|----------------------------------|------------------------------|
| 1909 (German demarcation) | 1,713,664 (approx.) |
| 1923 (a) Prior to 17 August 1923 | 1,282,644 (approx.) |
| (b) Subsequent to 17 August 1923 | 1,319,626 (approx.) |
| 1938 | 1,356,200 |
| 1946 | 1,356,200 |
| 1949 | 1,393,400 |

Complaints by the Rehoboth Community to the Permanent Mandates Commission

19. On 26 November 1926 the Rehoboth Community sent a petition^{15/} through the Mandatory Power to the Permanent Mandates Commission which stated that:

1. For over a year they had been promised the report of the judge and they had been denied any opportunity of seeing the Administrator;
 2. their goods were destroyed by the police and Europeans had been allowed to purchase their land;
 3. under German law, debts due to Europeans could not be recovered in court, and this law had been repealed;

14/ Report of the Rehoboth Commission, U.G. 41-'26, p.107; Report on the Administration of South West Africa, 1938, p. 49; Ibid., 1946, p.14; South African Yearbook, 1949, p. 1190. It should be pointed out here that there was no alteration in the boundaries of the Gebiet between 1946 and 1949.

15/ League of Nations, Permanent Mandates Commission, Eleventh Session, C.348, M.122, p. 218.

4. their game was being exterminated by Europeans; and
5. they asked for a personal audience to state their case.

Action taken by the Permanent Mandates Commission in respect of the petition

20. At its eleventh session,^{16/} the Commission decided that in the absence of the report of the Mandatory Power no action could be taken on the petition, but that in no circumstances could a personal audience be granted to hear the case. Again at its twelfth session^{17/} the Commission came to the conclusion that until it had received from the Mandatory Power the conclusions it had drawn from the De Villiers Report, no action on the petition could be taken. Finally, during its fourteenth session^{18/} the Commission, having examined the report and observations of the Mandatory Power on the petition, decided to inform the petitioners that the Permanent Mandates Commission had learnt of their grievances which, having been fully investigated, had "now lost their relevance and considers that, in the circumstances, there is no need for further action on the part of the Permanent Mandates Commission."

Subsequent developments

21. Subsequent to the action taken by the Permanent Mandates Commission in respect of the petition of 26 November 1926, the Mandatory Power issued a number of proclamations which directly affected the Rehoboth Community.
22. Proclamation No. 9 of 1928 provided that the functions formerly exercised by the Raad and transferred to the Magistrate by Proclamation No. 31 of 1924 continued to be vested in the Magistrate. It also created an Advisory Board composed of three nominated and three elective members (all of them male Rehoboth landowners of the age of not less than forty years) to advise the Magistrate, who had the power to conduct every election of the Board. In addition, it provided for the appointment of two assessors to sit with the

16/ 19th meeting.

17/ 20th meeting.

18/ 23rd meeting.

Magistrate in civil suits; decreed that no person other than a member of the Community could acquire immovable property except with the permission of the Administrator, who was also empowered to expel any undesirable person, other than a member of the Community, from the Gebiet; regulated liquor and arms supplies to the Community members; and extended the boundaries of the Gebiet to include two farms.

23. Proclamation No. 29 of 1929 provided that any interest in immovable property situated in the Gebiet, whether leasehold or freehold, which was held by a European at the date of commencement of this proclamation could be lawfully transferred by the holder thereof and his lawful successors in title as though Proclamations Nos. 28 of 1923 and 9 of 1928 had not been passed.

24. Proclamation No. 17 of 1932 preserved the rights of the Magistrate regarding revenue from licences.

25. Proclamation No. 5 of 1935 amended Proclamation No. 9 of 1928 by providing for an Advisory Board consisting of elective members only instead of elective and nominated members.

26. Proclamation No. 20 of 1935 amended Proclamation No. 9 of 1928 by providing for the removal from the Gebiet of any person endangering its peace, order or government; or any person, other than a member of the Community, who had been convicted of an offence.

27. Proclamation No. 16 of 1938 deleted a provision contained in Proclamation No. 9 of 1928 and stipulated that the election of the Advisory Board should take place in such manner as the Administrator might by regulation prescribe, or in the absence of such regulation in a manner fixed or determined by the Magistrate.

28. Proclamation No. 22 of 1941 altered the boundaries of the Gebiet as defined in Proclamation No. 28 of 1923, as amended, by the exclusion of certain farms having been transferred to or being genuinely occupied by Europeans, and by the inclusion of certain pieces of land being transferred to the Community.

29. Proclamation No. 18 of 1946 amended Proclamation No. 9 of 1928 by permitting a male Rehoboth landowner of the age of not less than thirty years to be elected as a member of the Advisory Board.

30. Proclamation No. 63 of 1951 conferred powers upon a commission appointed by the Administrator to enquire into and report upon the Gebiet. (The report of this Commission is not available in the files of the Secretariat.)

31. Proclamation No. 36 of 1954 altered the boundaries of the Gebiet as defined in Proclamation No. 28 of 1923, as amended, by including a certain farm which had been transferred to a member of the Community.

ANNEX I

Law of the Constitution of 31 January 1872

and
Constitution of the Bastards ^{19/} (1874) ^{20/}

A. PREAMBLES

a. The 1872 Constitution:

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

b. The 1874 Constitution:

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

B. THE CAPTAIN AND HIS COUNCILLORS

a. The 1872 Constitution:

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

19/ Not a term of opprobrium as commonly used in South Africa; it does not imply illegitimacy, but merely refers to the fact that the person is the offspring of European and non-European (Report of the Rehoboth Commission, U.G. 41-'26, p. 18).

20/ Translation from Dutch as reproduced in the Report of the Rehoboth Commission (U.G. 41-'26), Annexure VI (pp. 79-81 and 85-90): Law Book of the Rehoboth Bastards, Promulgated by the Captain and His Councillors in the years 1872 and 1874. To facilitate reference to the provisions of the two constitutions, the texts have been combined under headings by the Secretariat.

2. In the event of the decease of the Captain, or in the event of him being obliged to resign his office, the burgers shall immediately assemble for the purpose of electing and appointing another Captain.

3. During the period that the burgers shall not have elected and appointed a new Captain, the eldest of the two Councillors who assist the Captain, (to wit the eldest in office) shall take over the administration as Provisional Captain.

4. The Captain shall be assisted by a Council of two irreproachable burgers, elected by himself, for such period as he may think fit.

5. Every burger who enjoys the full burger-right is entitled to be elected as Captain.

6. The Captain's Council may at any time be called together by the Captain in matters concerning the administration and they are entitled to be absent only in cases of extreme necessity, but must previously notify the Captain, who may thereupon for the period of absence of such Councillors appoint others to act in their stead.

b. The 1874 Constitution:

Article 1

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

Article 2

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

Article 3

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

Article 4

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

Article 5

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

Article 6

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

Article 7

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

Article 8

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

Article 9

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

Article 10

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

C. THE VOLKSRAAD

a. The 1872 Constitution:

7. In order that the burgers may also share in the administration, they shall elect and nominate three irreproachable men as a Volksraad.

8. The Volksraad shall be elected for one year only. Within the first fourteen days of the new year the re-election of the Volksraad shall take place.

9. The Volksraad shall choose one of its members as Chairman or Speaker who shall have the right to assemble the Volksraad as often as he may deem necessary.

10. The Chairman or Speaker is the medium of communication between the burgers and the Volksraad.

11. The members of the Volksraad are bound to guard the interests of the burgers by whom they were elected.

12. All requests and wishes of the burgers shall be communicated to their member of the Volksraad, who shall bring the same to the notice of the Captain and his Council, who after consideration and if advisable, shall deal therewith by legislation.

13. At the election of the Volksraad one of the Captain's Councillors shall always be present, in order to prevent irregularities at such election for Captain and Country. But the Councillor has no right, when everything is conducted properly, to meddle with the voting.

D. BURGER-RIGHT AND SUFFRAGE

a. The 1872 Constitution:

14. Every burger who pays taxes shall have a vote.

15. Every Bastard, or whoever has married into the Bastards, may become a burger. All others shall be granted hospitality under conditions to be laid down later.

16. Whoever desires to become a burger shall notify the Captain who shall instruct him as to the laws. Should he be willing to conform to the laws, he shall, if known, be accepted as a burger by the Captain in the presence of the Captain's Council and the Speaker of the Volksraad.

17. Should the applicant for burger-right be a stranger he shall be on probation for six months. The Captain shall thereupon report to the Speaker of the Volksraad, who shall thereupon notify the burgers in order that whoever may have objections to the application, may lodge same. Should within the six months nothing be brought up against the applicant, he shall be accepted as a burger as hereinbefore provided.

E. PROMOTION OF PUBLIC INTEREST

a. The 1872 Constitution:

18. Captain, Captain's Councillors, members of the Volksraad and burgers shall, one and all bind themselves by hand-shake, for an oath, to perform their

duties of Office in the interests of the State, to the exclusion of personal interests.

b. The 1874 Constitution:

Article 11

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

Article 12

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

F. PROCEDURES FOR ADOPTING RESOLUTIONS AND LAWS

a. The 1872 Constitution:

19. Resolutions proceed from the Captain and his Council, as also laws, and these shall thereafter be transmitted in writing to the Speaker of the Volksraad, who shall immediately assemble the Volksraad to consider the resolutions or laws so transmitted.

20. No resolution or law shall be transmitted to the Volksraad until the Captain and his Raad shall be in agreement about the same.

21. Should there be a difference of opinion in the taking of resolutions or making of laws, a vote shall take place.

22. Should the Captain and one of his Councillors have a difference of opinion and not be able to come to an agreement, the opinion of the Captain as the Supreme Head shall be accepted.

23. On the contrary, should the two Councillors be agreed, the Captain shall submit to the Councillors.

24. All differences of opinion between the Captain and his Council shall be kept secret.

25. Should any one of the Councillors divulge such difference of opinion he may be dismissed and punished.

26. When the law or resolution transmitted, is accepted by the Volksraad, it shall be returned by the Speaker to the Captain, who thereupon has the right to ordain and publish the same as law.

27. Should, on the contrary, the law transmitted be rejected by the Volksraad, the Speaker of the Volksraad shall notify the Captain thereof, who shall thereupon stipulate the time and place when and where the Captain and his Raad will meet the Volksraad to debate upon the points of difference.

28. After each party shall have brought forward its arguments and objections, a vote shall be taken.

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

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

The following articles are all contained in the 1874 Constitution:

G. PROVISIONS IN CASES OF DANGER OF ENEMY ATTACK

Article 13.

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

Article 14

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

Article 15

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

H. PROVISIONS RELATING TO JUDICIAL MATTERS

Article 16

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

Article 17

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

Article 18

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

Article 19

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

Article 20

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

Article 21

Wilful murder shall be punished, irrevocably, by death.

Article 22

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

Article 23

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

Article 24

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

Article 25

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

Article 26

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

Article 27

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

Article 28

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

Article 29

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

Article 30

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

Article 31

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

Article 32

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

Article 33

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

Article 34

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

Article 35

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

Article 36

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

Article 37

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

Article 38

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

Article 39

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

Article 40

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

Article 41

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

Article 42

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

Article 43

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

Article 44

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

Article 45

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

Article 46

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

Article 47

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

Article 52

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

Article 48

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

I. PROVISIONS DEALING WITH THE PREVENTION OF LUNG AND OTHER INFECTIOUS DISEASES

Article 49

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

Article 50

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

Article 51

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

Article 53

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

Article 54

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

Article 55

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

Article 56

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

Article 57

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

Article 57^{*}

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

* The document from which this extract has been made contains two articles 57 as set out herein.

Article 58

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

Article 59

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

Article 60

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

Article 61

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

Article 62

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

Article 63

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

Article 64

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

J. FINAL CLAUSES

a. The 1872 Constitution:

Given at Rehoboth, 31st January 1872.

Captain, H. van Wyk.

Councillors, P. Diergaard, J. van Wyk.

Speaker of the Volksraad, Mechiel Diergard.

b. The 1874 Constitution:

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

Captain, Hermanus van Wyk.

Councillors, C. van Wyk.

" Afrika Izaak.

" Jakobus Beikis.

" Paul Diergard.

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

ANNEX II

TREATY OF PROTECTION AND FRIENDSHIP BETWEEN THE GERMAN EMPIRE
AND THE BASTARDS OF REHOBOOTH 21/

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

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

Article I

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

Article II

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

Article III

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

21/ Translation from Dutch, as reproduced in Report of the Rehoboth Commission (U.G.41-'26), pp. 98-99.

Article IV

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

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

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

Article V

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

Article VI

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

Article VII

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

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

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

(Sgd.) H. van Wyk.

Mark X of Jacobus Mouton.
(Sgd.) Johannes Diergaard.
Mark X of Dirk van Wyk
(Sgd.) Wilhelm Koopman
(Sgd.) Willem van Wyk.

Witness:

(Sgd) F. Heodmann
Missionary.

ANNEX III

PROCLAMATION NO. 28 OF 1923^{22/}

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

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

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

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

2. Any person who enters or resides within the boundaries of the territory known as the Gebiet in contravention of paragraph fourteen or fifteen of the said agreement shall be guilty of an offence, and upon conviction shall be liable to a penalty not exceeding One Hundred Pounds, or in default of payment

to imprisonment for a period not exceeding twelve months. Any such offence shall be cognizable alone by the Magistrate's Court for the District of Rehoboth, which is hereby empowered to impose on summary trial the maximum punishment provided for such contravention, anything to the contrary notwithstanding contained in the law relating to Magistrates' Courts.

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

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

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

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

God Save the King.

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

GIJS R. HOFMEYR,

Administrator.

SCHEDULE
AGREEMENT

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

Whereas the administration of the Territory of South-West Africa lately under the sovereignty of Germany, whereof the land occupied by the Burghers of Rehoboth commonly known as the Bastard Gebiet (hereinafter referred to as the Gebiet) forms part, has been placed under the Government of the Union of South Africa, as Mandatory thereof under the Mandate conferred in pursuance of the Treaty of Peace concluded at Versailles on the 28th of June, 1919, between the British Empire and certain other Allied and Associated Powers and Germany.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12. Any person, a party to any suit or proceeding whether civil or criminal before the Judges or Magistrates of the Rehoboth Community exercising jurisdiction under the provisions of paragraphs seven and eleven of this Agreement shall possess the right to appeal from the decision of such tribunal in the first instance to a Mixed Court composed of the Magistrate of the District of Rehoboth and two Judges or Magistrates of the Rehoboth Community other than the Judge or Judges or Magistrate or Magistrates before whom the case was

determined, and in the event of disagreement the decision of the Magistrate shall constitute the judgment of the Court. Provided that in all cases an appeal shall lie from the decision of such Court to the High Court of South-West Africa on such terms and conditions and in accordance with such rules and regulations as the Administrator in consultation with the Judge of the High Court may determine.

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

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

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

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

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

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

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

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

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

18. In case of any dispute or difference of opinion arising between the Administrator and the Raad with relation to any matter flowing from this Agreement the latter shall hand a written statement to the Administrator in which its objections or such proposals as it may desire to make shall be set forth in full and may thereafter, if necessary, represent the matter to him personally.

In case a satisfactory settlement of the matter in dispute is then not reached, the Raad may petition in connexion with the matter to the Parliament of the Union of South Africa either direct or by petition through the mediation of the Prime Minister.

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

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

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

Gys. R. Hofmeyr,
Administrator of South West
Africa

Albert Mouton
N. Olivier

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

Gert Cloete
Pieter Mouton
Malcolm McNab
Piet Beukes
Jan Witbooi X.
Gert de Klerk X.
F.W. Maasdorp, Secretary
Members of the Volksraad of the
Rehoboth Community.

As Witnesses:

Chas. M. S. Forsbrook
D. W. Drew
Thomas Alcock

FIRST SCHEDULE

BOUNDARIES OF THE REHOBOTH GEBIET IN REHOBOTH DISTRICT

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

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

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

| | No. |
|-------------------|-----|
| Oamites | 53 |
| Arovley | 52 |

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

direction along the district boundary of Windhoek and Rehoboth as defined in the First Schedule to Proclamation No. 40 of 1920 to the north-western beacon of the farm Dudoabib Ost No. 57; thence along the boundaries of and excluding the farms:

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

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

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

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

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

to the south-western beacon of the last-mentioned farm; thence in a westerly and north-westerly direction along the district boundary of Rehoboth and

Maltahöhe as defined in the First Schedule to Proclamation No. 40 of 1920 westward and north-westward to the point of beginning.

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

Gys R. Hofmeyr,
Administrator of South-West Africa

Albert Mouton
N. Olivier

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

Gert Cloete
Pieter Mouton
Malcolm McNab
Piet Beukes
Jan Witbooi X.
Gert de Klerk X.
F. W. Maasdorp, Secretary.
Members of the Volksraad of the Rehoboth Community.

As Witnesses:

Chas. M. S. Forsbrook
D.W. Drew
Thomas Alcock

SECOND SCHEDULE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Diamond Industry Protection Proclamation, 1922.

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

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

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

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

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

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

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

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

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

Gys R. Hofmeyr,
Administrator of South-West Africa

Albert Mouton.

N. Olivier

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

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F.W. Maasdorp, Secretary

Members of the Volksraad of the Rehoboth Community.

As Witnesses:

Chas. M. S. Forsbrook

D. W. Drew.

Thomas Alcock.

THIRD SCHEDULE:

High Treason. Sedition. Public Violence. Murder. Culpable Homicide.

Rape. Sodomy and Bestiality. Assault with intent to commit Murder or Rape or

Assault in which a dangerous wound is inflicted. Indecent Assault. Arson.

Robbery. Fraud. Forgery, or uttering a forged document knowing it to be forged.

Any conspiracy, incitement or attempt to commit any of the above-mentioned offences.

Gys R. Hofmeyr,

Administrator of South-West Africa.

Albert Mouton

N. Olivier

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

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F.W. Maasdorp, Secretary

Members of the Volksraad of the Rehoboth Community.

As Witnesses:

Chas. M.S. Forsbrook.

D.W. Drew.

Thomas Alcock.

ANNEX IV.

PROCLAMATION NO. 31 OF 1924^{23/}

WHEREAS by Proclamation of the Administrator of South-West Africa (No. 13 of 1924) dated the 5th day of May 1924 a Provisional Kapitein of the Rehoboth Community occupying the territory situate within the District of Rehoboth and known as the Gebiet was recognized until such time as a Kapitein should be elected by the Burghers of the said Community in due form of law in accordance with the constitution of the said Community dated the 31st January 1872 as amended by enactment of the 1st July 1874 and it was enacted that a Volksraad of the said Community should be elected on or before the sixteenth day of June 1924 in accordance with the provisions of the said constitution;

AND WHEREAS in pursuance of the provisions contained in the aforesaid Proclamation a Volksraad was elected in due form of law on the 16th day of June 1924;

AND WHEREAS no Kapitein has been elected by the Burghers of the said Community in accordance with the constitution of the said Community;

AND WHEREAS owing to political dissension amongst the members of the said Community a Provisional Kapitein and a Volksraad have been illegally and unconstitutionally elected by a certain section of the said Community;

AND WHEREAS illegal acts are committed with impunity by the aforesaid unconstitutionally elected Provisional Kapitein and Volksraad;

AND WHEREAS the Provisional Kapitein recognized under the provisions of Proclamation No. 13 of 1924 and the Volksraad elected in due form of law thereunder as aforesaid are unable to prevent such illegal acts or to exercise within the Gebiet the powers, functions and duties vested in them by law and to carry on the government of the Gebiet in accordance with the law of the constitution and in conformity with the agreement concluded between the Administrator of the Territory of South-West Africa and the Kapitein and

members of the Volksraad on the 17th day of August 1923 the provisions whereof were ratified and confirmed by Proclamation of the Administrator No. 28 of 1923 dated the 28th day of September 1923;

AND WHEREAS in consequence thereof illegalities and irregularities are being committed and practised within the Gebiet and the laws of the Administration of South-West Africa operative therein by virtue of the aforesaid agreement and the local laws have been rendered ineffective and set at defiance;

AND WHEREAS as a result thereof public safety and the preservation and maintenance of law, order and good government both within the Gebiet and in the Territory of South West Africa are seriously endangered;

AND WHEREAS it is essential in the interests of the Territory of South-West Africa that some form of properly constituted authority should be established within the Gebiet for the preservation and maintenance of public safety, law, order and good government therein and for the purpose of carrying out effectively the laws of the said Community and the provisions of the aforementioned agreement as ratified and confirmed as aforesaid;

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

1. From and after the date of the taking effect of this Proclamation the Provisional Kapitein and Volksraad recognized and elected in due form of law under the provisions of Proclamation No. 13 of 1924 and all persons acting under the authority of such Kapitein and Volksraad in whatever capacity shall cease to function within the territory occupied by the Rehoboth Community known as the Gebiet, situate in the District of Rehoboth and all and several the powers functions and duties vested by law in the Kapitein, Council of the Kapitein and Volksraad respectively of the said Community shall vest in the Magistrate of the District of Rehoboth who shall exercise all such powers, functions and duties in accordance with the laws of the said Community at present in force within the Gebiet and in conformity with the provisions of the agreement dated the 17th day of August 1923 between the Administrator of the Territory of South West-Africa and Cornelius van Wijk, Kapitein of the Rehoboth Community, and members of the

Raad of the said Community a copy whereof is set out in the schedule to Proclamation of the Administrator No. 28 of 1923 dated the 28th September 1923 or as hereafter amended.

2. (1) Anything to the contrary notwithstanding contained in the laws of the said Community and in the aforesaid agreement or in any other law the Court of the Magistrate of the District of Rehoboth as established by law shall possess the civil and criminal jurisdiction conferred by the said agreement upon the judges and magistrates of the Rehoboth Community who shall from the date of the taking effect of this Proclamation cease to perform the functions assigned to them under the said agreement.

(2) The Magistrate's Court in the exercise of the powers conferred upon it by the provisions of the last preceding sub-section shall anything to the contrary notwithstanding contained in the aforesaid agreement further possess jurisdiction to try and punish offences involving contraventions of the laws of the said Community committed within the Gebiet of Europeans or arising out of acts or transactions done or performed in the Gebiet between Europeans or between a European and a Burgher of the Rehoboth Community or between a European and a native:

Provided that where the omission or commission of any such act or transaction also involves a contravention of a law of the Territory of South-West Africa applicable to the Gebiet by virtue of the provisions of the aforesaid agreement the offender shall be dealt with under such latter law as provided in the said agreement and not under such local law.

(3) The Court of the Magistrate of the District of Rehoboth in the exercise of the jurisdiction, powers and functions conferred under the provisions of this section shall adjudicate in accordance with the laws of the said Community and shall in civil proceedings as far as practicable conform to the rules of procedure and evidence observed by the Courts of the said Community and in criminal proceedings shall conform to the rules of procedure and evidence applicable to Magistrates' Courts under the laws for the time being in force in the Territory of South-West Africa.

(4) An appeal shall lie from the Magistrate's Court exercising civil and criminal jurisdiction under the provisions of this section to the High Court of South-West Africa on such terms and conditions and in accordance with such rules and regulations as the Judge of the High Court may determine.

3. Anything to the contrary notwithstanding contained in the aforesaid agreement the provisions of Chapters five and six of the Criminal Procedure and Evidence Act 1917 of the Union Parliament relating to arrest search and the seizure detention and disposal of property connected with offences as applied to the Territory of South-West Africa by the Criminal Procedure and Evidence Proclamation 1919 (Proclamation No. 20 of 1919) shall be of full force and effect within the Gebiet and any person who shall resist or incite or aid or encourage any person to resist and any person who shall hinder obstruct or disturb any policeman in the execution of his duty shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding five pounds or in default of payment to imprisonment for a period not exceeding three months.

4. (1) The Magistrate of the District of Rehoboth shall forthwith receive and take into his possession all books, documents, papers and effects of whatsoever nature proper to the custody of or in the possession of or the property of the Provisional Kapitein and Volksraad recognized and elected under the provisions of Proclamation No. 13 of 1924 and all moneys held by the Provisional Kapitein and the Volksraad or either of them in their official capacity or capacities as such.

(2) Any person in possession of any such books, documents, papers, effects or money who refuses, fails or neglects when thereto required by the Magistrate to deliver the same to him and any person who resists or hinders or attempts to resist or hinder or who aids incites or encourages any other person to resist or hinder the Magistrate in the exercise of the powers conferred upon him by this section shall be guilty of an offence and upon conviction shall be liable to a fine of not exceeding fifty pounds or in default of payment to imprisonment for a period not exceeding six months.

(3) If it appears to the Magistrate on information made before him on oath that there are reasonable grounds for suspecting that there are upon any premises situate within his jurisdiction any books, documents, papers, effects or money which he is authorized to take into his possession under the provisions of this section or that any person is in possession of any such books, documents, papers, effects or money he may issue an order directing any policeman or policemen named therein to search such premises and to seize and take possession of any such books, documents, papers, effects or money and thereupon such officer or officers may lawfully execute such order.

Any person who resists or hinders or aids or incites any other person to resist or hinder any police officer or officers in executing the order shall be guilty of an offence and shall be liable on conviction to the penalties prescribed in the last preceding sub-section.

5. (1) All rights and privileges acquired by or accrued to the Provisional Kapitein and Volksraad recognized and elected under the provisions of Proclamation No. 13 of 1924 in an official capacity shall continue to exist in favour of the Magistrate of the District of Rehoboth in the exercise of the powers vested in him under the provisions of this Proclamation and all taxes and other moneys lawfully due and payable to such Kapitein or Volksraad shall continue to be recoverable by the Magistrate in his aforesaid capacity.

(2) No action, indictment or other legal proceeding whatsoever shall be brought or instituted in any Court of Law against the Magistrate of the District of Rehoboth in his capacity as the successor in office of the Provisional Kapitein and Volksraad of the said Community recognized and elected under the provisions of Proclamation No. 13 of 1924 by virtue of the provisions of this Proclamation in respect of any cause of action whatsoever which may exist against the Provisional Kapitein and the Volksraad recognized and elected under the provisions of Proclamation No. 13 of 1924.

6. Any additional cost imposed upon the Administration of South-West Africa incidental to the administration of the Gebiet in consequence of the transfer to the Magistrate of the powers, functions and duties of the Kapitein, Council of the Kapitein and Volksraad of the Rehoboth Community under the provisions of this Proclamation shall be defrayed out of the communal revenues of the said Community.

7. (1) The Magistrate shall cause separate accounts to be kept of all moneys received and expended by him in pursuance of the duties assigned to him under the provisions of this Proclamation which said accounts shall be open at all reasonable times to inspection by any person interested therein.

(2) The said accounts shall be in such form as may from time to time be prescribed by the Secretary for South-West Africa and shall be subject to audit and inspection at such times and by such person or persons as the Administrator may designate.

3. Any person who exercises or attempts to exercise or usurps or attempts to usurp in any manner whatsoever any of the powers, functions and duties assigned to the Magistrate or to the Magistrate's Court under the provisions of this Proclamation and any person who acts under the authority of any such person as aforesaid in the exercise or attempted exercise or usurpation or attempted usurpation of any such powers, functions and duties and any person who aids incites or encourages any other person to exercise or to attempt to exercise or usurp or to attempt to usurp any of such powers, functions and duties as aforesaid shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding two hundred pounds or in default of payment to imprisonment for a period not exceeding two years or to such imprisonment without the option of a fine or to both such fine and imprisonment.

9. Anything to the contrary notwithstanding contained in any law relating to Magistrates' Courts or in any other law, the Magistrate's Court for the District of Rehoboth shall have special jurisdiction to impose on summary trial the maximum penalties provided for a contravention of this Proclamation.

10. The Proclamation may be cited for all purposes as the Rehoboth Affairs Proclamation 1924 and shall commence and take effect on the sixteenth day of December, 1924.