

REPLIES TO CERTAIN OBSERVATIONS OF PERMANENT MANDATES COMMISSION ARISING OUT OF EXAMINATION OF ANNUAL REPORT FOR 1925.

1. GENERAL ADMINISTRATION.

(a) *German Laws.*—The following German laws are still in force in the Territory :—

Taxation of Land.

(1) Ordinance by the Governor, dated 19th March, 1909, relating to the Taxation of Landed Property, with additions dated 12th October, 1910, and 24th November, 1913. (*Note* : This Ordinance has been amended by Proclamation No. 32 of 1920 and Proclamation No. 19 of 1925.)

(2) Regulations made by the Governor, dated 9th September, 1909, under the Ordinance for the Taxation of Landed Property of the 19th March, 1909.

Mining.

(3) Mining Ordinance by the Emperor, dated 8th August, 1905. (*Note* : This Ordinance has been amended by Proclamations Nos. 24 of 1919, 12 of 1920, 59 of 1920, 29 of 1921, 11 of 1923, 15 of 1925 and 10 of 1926.)

(4) Ordinance by the Chancellor, dated 26th February, 1909, with an addition dated 12th May, 1910, relating to the Royalties payable under the Imperial Mining Ordinance dated 8th August, 1905.

(5) Decree by the Governor, dated 26th April, 1909, with an addition dated 13th February, 1912, relating to the survey and marking off of mining areas.

(6) Ordinance by the Emperor, dated 13th October, 1910, relating to the exclusive right of the Governments of the African and South Sea Protectorates to search for and win minerals on the Sea-bottom.

(7) Ordinance of the Emperor, dated 16th January, 1909, relating to the traffic in South-West African diamonds (see note to item 9 below).

(8) Ordinance of the Chancellor, dated 25th February, 1910, with amendments dated 12th January, 1913, and 27th May, 1913, relating to the carrying out of the Imperial Ordinance relating to the traffic in South-West African diamonds, dated 16th January, 1909 (see note to item 9 below).

(9) Ordinance by the Chancellor, dated 25th May, 1909, with the addition dated 19th October, 1909, and amendments dated 12th January, 1913, and 27th May, 1913, relating to the performance of the functions of the "Diamanten-Regie" of the South-West African Protectorate. (*Note* : The Ordinance referred to under items 7 and 8 and under this item, amended as shown, vested certain rights in the "Diamanten-Regie." By Proclamations Nos. 22 of 1919 and 4 of 1921 certain of these functions were vested in the Diamond Board for South-West Africa and the balance in the Administration.)

Taxation of Diamonds.

(10) Ordinance by the Emperor dated 30th December, 1912, relating to the taxation of diamonds (see note to item 12 below).

(11) Ordinance by the Chancellor, dated 12th January, 1913, for the carrying out of the Diamond Taxation Ordinance of the 30th December, 1912 (see note to item 12 below).

(12) Ordinance by the Governor, dated 25th February, 1913, for the carrying out of the Diamond Taxation Ordinance of the 30th December, 1912. (*Note* : The provisions of the Ordinances referred to under items 10 and 11 and under this item were amplified by Proclamation No. 4 of 1921.)

Registration of Mining Titles.

(13) Decree by the Chancellor, dated 30th November, 1902, for the carrying out of the Emperor's Ordinance of 21st November, 1902, relating to Land Titles in the German Protectorates. (*Note* : The Provisions of this Decree are in force only in respect of the registration of mining titles—see note to item 14 below.)

(14) Decree by the Governor, dated 30th May, 1910, relating to the establishment of a Register of Mining Titles. (*Note* : Article 2 of this Decree lays down that, subject to certain modifications, the provisions of the Decree of the Chancellor referred to under item 13 are to be observed in the registration of mining titles.)

Explosives.

(15) Ordinance by the Governor, dated 24th June, 1911, relating to the traffic in explosives.

Game Reserves.

(16) Ordinance by the Governor dated 22nd March, 1907, relating to the establishment of Game Reserves. (*Note*: The provisions for protecting the three Game Reserves established by this Ordinance are made more stringent by section two of Proclamation No. 15 of 1919.)

Sale of Drugs.

(17) Ordinance by the Governor, dated 1st January, 1901, relating to the sale of drugs.

(18) Ordinance by the Governor, dated 25th May, 1912, relating to the importation, the cultivation and the smoking of, and the traffic in, hemp.

Agricultural Pests.

(19) Ordinance by the Governor, dated 25th May, 1900, concerning the importation and keeping of rabbits.

(20) Ordinance by the Governor, dated 1st October, 1902, relating to the prevention and suppression of phylloxera.

(21) Ordinance by the Governor, dated 26th July, 1911, relating to the suppression of foul brood in bees.

Telegraphs.

(22) Ordinance by the Emperor, dated 15th June, 1906, concerning Telegraphs in the German Protectorates except Kiautschou.

In addition to these cases, in which the German Statute is still law, by virtue of its original enactment and promulgation, there are several instances in which the substance of a repealed German statute has been re-enacted in a statute issued since the occupation.

Examples are the Governor's Ordinance of the 12th June, 1912, relating to the branding of cattle, which was specifically repealed by Proclamation No. 36 of 1921, and the Governor's Ordinance of the 1st April, 1900, relating to the protection of forests, which was superseded by Proclamation No. 23 of 1925.

(b) The staff in Ovamboland is constituted as follows :—

The Native Affairs Officer and one clerical assistant, and a District Surgeon stationed at Ondongua, and one assistant at Namakunde (about 55 miles from Ondongua). The assistant at Namakunde is subordinate to the Native Affairs Officer at Ondongua. Namakunde lies within the Neutral Zone, and when the boundary line between the Territory and Angola is demarcated the assistant will be removed to Omafana which is about 12 miles south of Namakunde and is in the Territory.

The Okavango staff consists of a Native Affairs Officer and a medical orderly who performs clerical duties and examines native labourers recruited for employment in the Territory.

As has been stated in previous reports the natives in Ovamboland and on the Okavango live under tribal conditions and under their own laws and customs in so far as these do not conflict with public order and good morals.

On the whole the natives are wonderfully peaceful and lawabiding and for years nothing worthy of comment has occurred. The Native Affairs Officer of Ovamboland visits each tribe at least once a month and travelling by motor car he varies the dates of his visits so that the natives do not know when to expect him. On arrival he makes very close enquiries into all that has happened since his last visit and so keeps thoroughly in touch. The Chiefs consult him on any difficulties they have, either administrative or in connection with disputes which have come before them for decision. He also conveys to them any directions of the Administration and suggests to them any improvements which they can make in their own administration in various directions. For example, one chief some time ago was induced to give orders for the protection of game. He suggests to them various ways in which they can increase their own comfort and prosperity, *e.g.*, by the conservation of water for their own use and for their stock; the improvement in the quality of their stock and so on.

The present officers are looked up to by the natives and treated with the utmost respect. Indeed the Native Affairs Officer is actually the Chief of the Ukuanyama tribe—in importance and wealth probably the first tribe in Ovamboland. In 1917 it became necessary to send a punitive expedition to deal with Mandume who was then their chief and in an action which ensued Mandume was killed. The tribe thereafter elected Lieut. Hahn, who was assistant to the then Native Affairs Officer, whom he has since succeeded. He exercises his authority through the Headmen of the tribe.

The Native Affairs staff do not exercise any judicial powers. The position on the Okavango is similar except that the Native Affairs officer is unable to visit all the tribes so frequently. The tribes are scattered along the river and the area under his control consists of a narrow strip about 200 miles in length, running along the river.

(2) *Labour*.—It is hardly correct to employ the word “unrest” in relation to the desertions by Xosas from the Luderitzbucht Mines. The position simply is that the Xosas were recruited in a portion of the Cape Province of the Union which is fertile and beautiful and where they are accustomed to beer and women. They apparently found the change to the naturally bleak and inhospitable conditions of the Luderitzbucht Diamond Fields, where liquor is prohibited and where there are no women, uncongenial, and a number who were dissatisfied, deserted. The causes of the dissatisfaction were enquired into at the time and it was found that these were not attributable to the administration of the mining authorities, who have done everything possible to make the conditions congenial.

(3) *Liquor Traffic*.—Attention is invited to the explanation contained in para. 16 of this report from which it will be observed that the figures contained in the 1925 report, which were purely provisional, were incorrect. There was no undue increase in the importation of liquor during 1925. It may, however, be pointed out that the European population is rapidly increasing and a reasonable increase in the quantity of liquor imported must be expected.

(4) *Liberty of Conscience*.—Attention is invited to the explanations of points (a) and (b) of the undertaking required of missions operating in Ovamboland which appear on page 108 of the 1925 Report.

I have no further information to give and the question simply resolves itself into one of opinion as to whether the conditions fall within the Mandate or not. The three missions operating in Ovamboland have accepted these conditions without demur.

As regards point (a), the isolation of and the general conditions obtaining in Ovamboland have frequently been referred to in previous reports. The natives are very uncivilised and live under tribal conditions.

In this connection I would refer to Section 8 of the Report of the Permanent Mandates Commission on the work of its third session and particularly to the following passage:—

“The maintenance of order is the first duty of the Governor and order is a necessary condition for the full development of all freedom not excepting freedom of religion. Any regulations, therefore, arising out of the necessity for the maintenance of order will, if such order be genuinely endangered, be free from criticism, even should such regulations have the effect of restricting, in some measure, the free exercise of religion.”

The Commission did not disapprove of the suggestion made by the representative of the Mandatory Power referred to that in certain circumstances spheres of influence might be assigned to the various missionary bodies and the clear inference from the general tenour of the remarks made by the Commission is that under certain conditions the adoption of the course indicated would not be regarded as transgressing the terms of the Mandate.

Having regard to the conditions obtaining in Ovamboland the Administration divided the country into spheres of influence for mission purposes when it accorded the Damaraland and Roman Catholic missions permission to enter. This restriction was, however, subsequently removed and the three missions operating in Ovamboland (the third being the Finnish Mission) were granted freedom of action subject to the conditions set out in Annexure A to the Report for 1925 (pages 107 and 108) which it deemed necessary to impose.

If power exists to divide the country into spheres of influence in the circumstances contemplated in Section 8 of the Permanent Mandates Commission and so definitely restrict freedom of movement of missions, *a fortiori* power should exist to do something less, *i.e.*, to grant freedom of movement subject to reasonable conditions. It is considered this is a very reasonable condition and one which in no way restricts the free exercise of religion. Due obedience to and respect for the lawfully constituted authority are principles which are instilled into the people of every country in the world, civilised or uncivilised.

Whether the conditions require that special regulations for the maintenance of order should be imposed is a question which must be left to the discretion of the Mandatory Government which is *au fait* with the position. In the case of Ovamboland it is contended that condition (a) is not inconsistent with the mandate.

With regard to point (b) it is not an uncommon experience that missionary activity results in a diminution of labour. The labour shortage in the Territory is so acute and the development of the country is so absolutely dependent on labour that it does not seem unreasonable to ask the missions for an undertaking that they will do nothing which will interfere with the free flow of labour.

Quite apart from the interest of the State there is the interest of the native also to consider. Civilisation will never be developed on idleness and education of the native does not consist of teaching him the alphabet or the bible only. The main thing is to teach him various crafts so that he may become an economic asset to the country. Left to himself he will simply sit in the sun and dream about women and cattle. A good harvest results in liberal brewing of beer, heavy drinking and tribal disorders. Work brings him in contact with civilisation and therefore necessarily assists the process of civilising him.

The State is entitled to look to the missions operating in such areas as Ovamboland to assist it and to indicate reasonable ways in which that assistance can be given. It cannot for a moment be urged that the condition in question can have the effect of restricting the free exercise of religion in any way, on the contrary, one of the first steps of any mission or of any institution which attempts the civilisation and education of savages must be to inculcate in them the principles of the dignity of labour, and any institution which does not proceed on these lines cannot hope to succeed and can never be of any value to the country.

The condition therefore in the light of the explanation given to the missions embodies what should be a fundamental principle of mission work and it is not considered that it travels beyond the mandate.

(5) *Education*.—See supplementary statement on Native education (paras. 135 to 147) which outlines the Administration's policy in this connection. The amount placed on the Estimates for the current financial year in respect of direct expenditure on native education is £7,550, which the Legislative Assembly considered adequate for the carrying out of the Administration's policy. It will be observed from the statement referred to that this amount is increasing every year.

(6) *Railways and Harbours*.—A clear idea of the financial position and management of the Railways and Harbours in South West Africa is given in the Memorandum forwarded to the Secretary-General of the League of Nations, for information of the Permanent Mandates Commission, on the 27th October, 1926.

(7) *Moral and Material Welfare*.—Noted.

Annexure "B."

REPORT ON THE CAPRIVI ZIPFEL FOR THE PERIOD 1ST JANUARY, 1926,
TO 31ST DECEMBER, 1926.

Administration and Legislation.—The Caprivi Zipfel is part of the territory which formerly constituted the German Protectorate of South West Africa. It was therefore "included within the territory over which" the Council of the League of Nations, on 17th December, 1920, conferred a mandate "upon His Britannic Majesty for and on behalf of the Government of the Union of South Africa."

The Union Government, as mandatory power, has therefore full power of administration and legislation over the Caprivi Zipfel. It has however, delegated its powers to the High Commissioner for South Africa, and, by Governor-General's Proclamation No. 12 of 1922 and High Commissioner's Proclamation No. 23 of 1922, the Caprivi Zipfel was brought under the administration of the Bechuanaland Protectorate as from the 1st January, 1921, and the laws in force in the Bechuanaland Protectorate declared applicable to the Zipfel. The laws previously in force therein being at the same time repealed with the exception of those mentioned in the Schedule to the Bechuanaland Protectorate Proclamation No. 23 of 1922, namely :—

Indemnity and Withdrawal of Martial Law Proclamation 1920. Dated 31st December 1920, issued by the Administrator of South West Africa as ratified by Proclamation No. 1 of 1921 of the Governor-General of the Union of South Africa.

Proclamation No. 12 of 1922 and No. 13 of 1922 issued by the Governor-General of the Union of South Africa under the Treaty of Peace and South West Africa Mandate Act, 1919.

High Commissioner's Proclamation No. 9 of 1924 (Promulgated 17th April 1924), which put in force the German Imperial Mining Ordinance of 8th August 1905, together with amendments thereto as published in Proclamation No. 24 of 1919 of South West Africa.

The sale and importation of arms and ammunition in the Caprivi Zipfel are controlled by Proclamation of the 10th June, 1891, and contravention of the law in this respect is subject to severe punishment.

The slave trade is prohibited, as is also the sale of intoxicating European liquors to natives by Proclamation of the 4th April, 1892; the provisions of Articles 4 and 5 of the mandate for South West Africa have also been observed.

For administrative purposes the Caprivi Zipfel is divided by the Mashi River, into two parts, the eastern being administered by the Magistrate resident at Kasane, and the western by the Magistrate stationed at Maun. These Magistrates are assisted by a Police Staff consisting of two European Sergeants, two native mounted troopers and fifteen dismounted constables.

A Police Station has been established during the year at Andara, and, owing to an outbreak of lung-sickness north of Andara, a further Police Post has been opened at Mbambo, on the border of South West Africa, where two native constables have been stationed.

With the threatened influx of lung-sickness, it was also found necessary to establish a Buffer Zone on the Batawana Reserve Boundary South of Andara. At present four men are stationed on this Border, a post of two men being established on each side of the Okowango River. Recommendation has been made for six more native Police in this Buffer Area, and, for further safeguarding the border, it is proposed to open a Police Post at Boti as soon as these necessary Police are available.

Lung-sickness.—During the latter part of the year ten villages in the neighbourhood of Andara were found to be infected with lung-sickness, and all cattle, including incontacts, were shot. Compensation to the full extent allowable by law has been authorised.

European Traders and Licences.—Five trading sites were occupied during the year 1926, namely :—

Malinda Pan	.. .. .	.. .. .	.. .. .	.. .. .	.. .. .	Mr. J. A. Legge (transferred, July 1926, to Mr. R. F. Sutherland).
Impalela Island	.. .. .	.. .. .	.. .. .	.. .. .	.. .. .	Mr. J. A. Legge.
Kabulabula	.. .. .	.. .. .	.. .. .	.. .. .	.. .. .	Mr. M. Michelsen.
Katima-Molilo	.. .. .	.. .. .	.. .. .	.. .. .	.. .. .	Mr. A. Harrington.
Andara	.. .. .	.. .. .	.. .. .	.. .. .	.. .. .	Messrs. R. Malone and C. R. Morriss.

a rental of £12 per annum being paid as stand rent in each case.

A private site of approximately three acres at Katima-Molilo is occupied, under the approval of the High Commissioner by Mr. R. A. da Costa Blake at a rental of £30 per annum.

Crops.—In the Eastern portion of the Strip, despite the floods during March, April, May and June 1926, when the flood-water reached the highest level within the memory of the oldest inhabitants, there was a sufficiency of food—chiefly mealies, kaffir corn, peanuts and pumpkins—as these had been reaped before the floods came down, and the natives had also a fair supply of grain for sale. There is every prospect in this portion of the Strip of good crops being reaped this year as most of the gardens were covered with rich alluvial soil brought down by the floods, and this was still sufficiently damp at the end of July to allow of ploughing. As a result, it is anticipated that the crops will be exceptionally early in 1927, as, in ordinary years, the inhabitants have to wait until the end of September when the first rains are due before sowing. The improvidence of the native is, however, a factor to be reckoned with: he will always sell his surplus grain, and, a few months later, buy it back at an enhanced price.

In the Western portion of the Strip, owing to a late and scanty rainfall, crops were scarce. Kaffir corn could only be purchased in very small quantities, and mealies were unobtainable for part of the year.

Schools.—There are native schools at Katima-Molilo, Mamili's Village, Ekaba, Sundwa, Lusese and Andara, the first named being the most important with an attendance of over 60 children. A government grant of £20 per annum is made to the school at Andara, which is conducted by the Oblate Fathers of German nationality.

Taxation.—The natives of the Caprivi Strip are not subject to the payment of Hut Tax, the operation of the Bechuanaland Protectorate Hut Tax Proclamation No. 9 of 1909 having been suspended in the Caprivi Zipfel by virtue of High Commissioner's Notice No. 92 of 1922. As regards Europeans, Poll Tax and Income Tax are in force but yield a very small amount.

Finance.—A statement of receipts and expenditure for the Financial Year April 1st, 1925, to March 31st, 1926, is attached.

Crime.—The inhabitants of the Strip are peaceful and law-abiding. No serious crime was reported during the year 1926.

Missions.—Missions under the Seventh-Day Adventists and the German Oblate Fathers are conducted at Katima-Molilo and Andara, respectively. The latter have erected very good buildings and have succeeded in making the Mission self-supporting.

Public Health.—Owing to the floods alluded to above, in large tracts of the Eastern portion of the Strip, there was hardly a village which escaped being swamped, and, in some cases, the inhabitants had to build their huts with the floors raised 3 or 4 feet above the ground level in order to escape the water. Under these circumstances there were a larger number than usual of cases of pneumonia, malaria and dysentery, the last two being at their worst when the floods were subsiding as the water became foul in most of the lagoons and waterways through the rotting of large quantities of reeds and vegetation carried into them by the receding flood. The health of the inhabitants during the last three months of the year, on the other hand, has been better than usual, as nearly all of them were compelled to build new huts on fresh sites when the floods had subsided, and, as a result the cleanliness

and sanitation of the villages, was far above that of average years. The natives of these parts living as they do for the most part with an abundance of water, can, however, only be described as dirty.

In the western portion of the Strip there has been the usual prevalence of fever, but, apart from this, the health of both Europeans and Natives has been fairly good. The natives are able to get medical treatment of an elementary nature from the Missionaries at the Mission Stations; they may also consult the Medical Officer in Ngamiland.

Native Peoples.—There are two sections of natives living to the East of the Mashi River under the rulership of Chiefs Mamili and Chika-Matondo, respectively. Mamili's people comprise Bafwi, Bayeyi and a section of the Mampukush whilst those of Chika-Matondo consist of Basubia. West of the Mashi River the land is peopled by the Mampukush, under Chief Disho, who live mainly on the islands of the Okowango River, and are adepts at navigating dug-out canoes in the rapids of that river.

The Barotse of Sesheke, Northern Rhodesia, again availed themselves of the permission granted to them by the High Commissioner in July, 1923 (and renewed under stated conditions in 1924 for three years), to cultivate lands on the South bank of the Zambesi River, and there have been no complaints lodged by the local natives in this connection.

The Paris Missionary Society, Sesheke, is also permitted by the High Commissioner to cultivate gardens, approximately 4 acres in extent, near to Schuckmansberg, and to keep eight oxen and four cows in the Strip for the benefit of the students boarding at their school.

There are also a good many natives living on the river, whose Chief is Nyangana residing in South West Africa and near the border. The latter tribe are now under Chief Disho, but constant intercourse and visiting goes on between these people and those under Nyangana and the recent outbreak of Lung-sickness is, no doubt, the result of this. The disease appeared at Nyangana a considerable time before the outbreak was reported in the Strip.

Tribal Law.—Each village has its Induna or Headman who has authority to adjudicate according to Native Law and Custom amongst his followers. He is generally assisted by the older men. If they do not agree or if the plaintiff or defendant is not satisfied, then the case is taken to the Chief's Kgotla.

The Chief's Kgotla or Court is the principal one and its judgments are final except that provision is made under Proclamation No. 1 of 1919 for appeals against the judgments of Native Chiefs in the Bechuanaland Protectorate, in the first instance to a Court composed of the Assistant Commissioner or Magistrate of the District and of the Chief, and in the event of their disagreeing then the Resident Commissioner decides the matter in dispute. When members of a tribe are punished by their own Courts the penalty is usually one or more head of cattle. The fines become the sole property of the Chief although he may give some of the cattle to his Councillors.

Population.—The Native population of the Caprivi Strip as enumerated in the year 1921 was :—

<i>Males.</i>	<i>Females.</i>	<i>Total.</i>
2,003	2,246	4,249

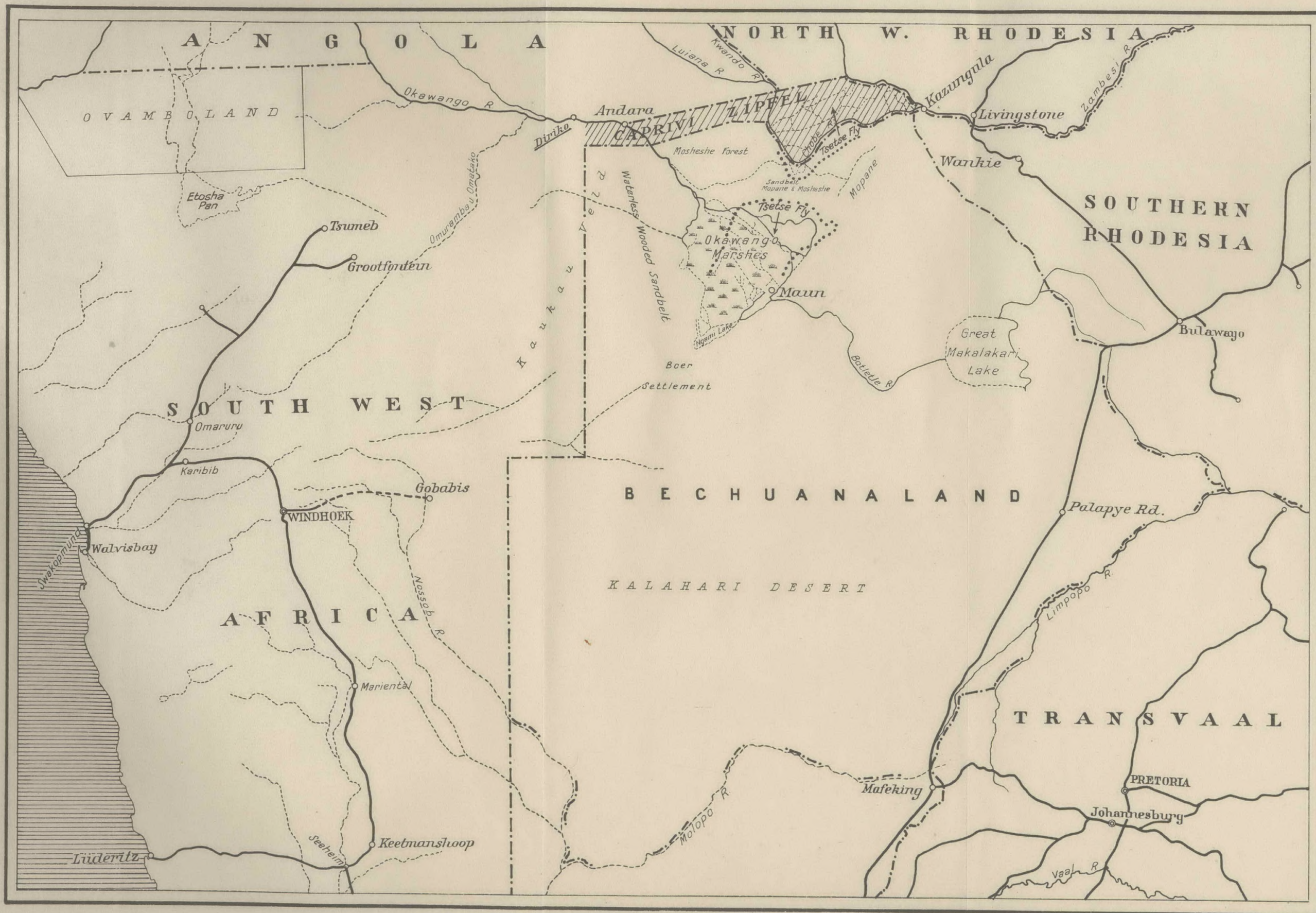
and, apart from Officials, the only Europeans in the territory are a few Missionaries and Traders.

STATEMENT OF REVENUE AND EXPENDITURE IN THE CAPRIVI STRIP FOR THE YEAR ENDED 31ST MARCH, 1926.

Revenue.	Amount.	Expenditure.	Amount.
Licences	£98 2 6	Personal Emoluments (District Administration and Police)	£1,320 15 8
Revenue Stamps	10 0	Stores, Equipment, Grain, etc.	85 15 4
Poll Tax	9 0 0	Travelling Expenses	47 4 3
Rentals and Transfer Duty	84 0 0	Cattle Diseases	402 0 0
Miscellaneous	17 11	Public Works Recurrent	12 1 6
		Public Works Extraordinary	150 0 0
		Education	20 0 0
Total Revenue	£192 10 5	Total Expenditure	£2,037 16 9

“Map of the Caprivi Zipfel” showing its position in relation to the remainder of South-West Africa, British Bechuanaland and the Union of South Africa.

„Kaart van Caprivi Zipfel” wat sy posiesie aantoon in verband met die orige deel van Suidwes-Afrika, Brits Betsjoeanaland en die Unie van Suidafrika.



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SOUTH AFRICAN INSTITUTE OF RACE RELATIONS (SAIRR), 1892-1974

PUBLISHER:

Collection Funder:- Atlantic Philanthropies Foundation

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

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