

# SOUTH WEST AFRICA AND THE UNITED NATIONS

"Granite walls don't budge easily and usually have to be dynamited out of the ways" says BRIAN BUNTING. The South West African issue comes before UNO again this month; "To preserve the prestige of UNO South Africa will have to be brought to heel."

South Africa has already lost the South West African battle. The only question which remains to be decided is whether she will have the grace to admit defeat, or whether the United Na-

tions will be compelled to remove the territory from her administration by force.

South Africa has no legal or moral case at all over South West Africa. Legally South West Africa is not part of the Republic of South Africa, however much Verwoerd or Louw may wish it so, but an international territory held in trust.

formerly a German colony, is to become independent in December of this year. The Belgian trust territory of Ruanda Urundi is to become independent next year.

But South Africa has refused to recognise the authority of the United Nations in respect of her mandate over South West Africa and, despite the fact that the League of Nations and the Mandates Commission no longer exist, insists that she is still exercising her powers in terms of the original mandate granted at Geneva in 1920.

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### From Mandate —

Article 22 of the League of Nations Covenant states, inter alia:

"To those colonies and territories which as a consequence of the late war (World War I) have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet ready to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such people form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in the Covenant."

There were three classes of mandate: (a) for those territories, more particularly those belonging to the former Turkish Empire, practically "ripe" for independence; (b) for those territories not yet "ripe" for independence, especially those of Central Africa; and (c) for "territories, such as South West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory."

In the case of the former German colony of South West Africa (population 600,000 of whom under 100,000 are Whites), article 2 of the Mandate instructed that:

"The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the Territory."

### — To U.N. Trusteeship

After World War II, all mandates with the exception of South West Africa were placed under United Nations Trusteeship. Some, like Togoland and Cameroun in Africa, have already been granted complete independence. The British trust territory of Tanganyika,

### The International Court

To some extent South Africa's contention was borne out by the 1950 Advisory Opinion of the International Court of Justice, to which the U.N. had referred her complaint about South Africa's refusal to submit a trusteeship agreement. The International Court held

1. That South West Africa is still under the League of Nations Mandate assumed by South Africa after the first World War.

But, the International Court added:

2. The provisions of the U.N. Charter provides a means by which South West Africa may be brought under the trusteeship system.
3. South Africa is not competent to modify the international status of the territory. This can be done only with United Nations consent.
4. South Africa has an obligation to submit reports and transmit petitions from the inhabitants to the United Nations.

But, again, the International Court held:

5. South Africa is not legally obliged to place the country under the trusteeship system.

The court was unanimous on points 1, 2 and 3. Point 4 was carried by 12 votes to 2, and point 5 by 8 votes to 6.

### A New Case for the Law

The present Liberia-Ethiopia application to the International Court, which may be heard this year or next year, and may drag on for some years before the verdict is handed down, accepts that South West Africa is still a mandate, but argues that South Africa "has violated, and continues to violate, Article 2 of the Mandate and article 22 of the Covenant of the League of Nations" in that "the Union has not promoted to the utmost the material and moral well-

## "SOUTH AFRICA HAS ALREADY LOST THE SOUTH WEST AFRICAN BATTLE..."

being and social progress of the inhabitants of the Territory."

Liberia and Ethiopia argue that the Union has not only failed to adopt "the necessary and appropriate" measures to fulfil these objectives, "but it has taken affirmative action which denies their fulfilment", and their petition to the Court sets out in detail the application of the policy of apartheid in South West Africa.

"The Union, in administering the Territory, has adopted and applied legislation, regulations, proclamations and administrative decrees which are by their terms and in their application arbitrary, unreasonable, unjust, and detrimental to human dignity" and "have suppressed rights and liberties of inhabitants of the Territory essential to their orderly evolution towards self-government."

Ethiopia and Liberia ask the International Court to find:

★ "That the South West Africa mandate is a treaty in force which has been violated by the South African Government because of the practice of apartheid.

★ "That the Union has the duty forthwith to cease the practice of apartheid in the Territory, and to repeal all discriminatory laws.

★ "That the Union has the duty forthwith to cease and desist from any action which thwarts the orderly development of self-government in the Territory."

### Shoddy Tricks

It is in a shameful and shamefaced last-minute attempt to provide some sort of reply to these detailed allegations that the Union Government has recently made some petty concessions to the Non-White peoples of South West Africa.

The Rehoboth Basters were offered the restoration of the 1923 agreement — but rejected the offer in a referendum on the grounds that it was not a genuine offer of self-determination.

An attempt has been made to establish a Coloured Advisory Board, and the people of Ovamboland have been promised a territorial authority.

Finally, the wages of contract labourers were raised from 1s.3d. a day to 1s.9d. a day, and the period of the contract was shortened from 18 months to 12 months.

With these shoddy tricks the Verwoerd Government hopes to be able to convince the International Court that it has done its utmost to promote the material and moral well-being of the inhabitants of the territory. One can confidently predict in advance that the attempt will be a miserable failure.

The Liberia-Ethiopia court application was widely regarded as a deliberate attempt, perhaps inspired by South Africa's imperialist friends at U.N.O. to delay the inevitable political decision on South West Africa.

### "Get Ready for Self-Rule"

South West African petitioners at the November 1960 session of the General Assembly (Ismail Fortune, Mburumba Kerina, Jariretundu Kozonguizi, Jacob Kuhangua, Sam Nujoma, Michael Scott, Oliver Tambo and Marcus Kooper) in a joint statement declared

"it would be a travesty of justice if the legal action which is designed to enforce rights already adjudicated by the International Court should be used as a pretext to defer General Assembly action."

The petitioners recognised, on the other hand, "that the actual establishment of an alternative administration at this moment would be to anticipate the judgment of the Court" but "preparations must be begun of measures necessary for the restoration of rights and for the most urgent tasks of economic and social reconstruction." These measures would provide for the assemblage of resources, the training and equipment of personnel from South West Africa and the assembly of skills and apparatus through the special agencies of the United Nations.

"We believe," said the resolution "that these tasks should be undertaken now. We believe that a United Nations Commission should be set up which could ensure a continuous U.N. presence in South West Africa, and which would be empowered to draft plans for an eventual transfer of the administration."

### UNO Goes to Africa

The General Assembly did not go as far as the petitioners asked.

Instead, at its last December session, it instructed its special Committee on South West Africa to go to South West Africa immediately to report on "conditions for restoring the climate of peace and security" and take "steps which would enable the indigenous inhabitants of South West Africa to achieve a wide measure of internal self-government designed to lead them to full independence." It invited the co-operation of the South African Government in this task.

The South African Government responded, as might have been expected, by refusing to co-operate and refusing to grant applications for visas by the members of the South West Africa Committee.

By this time international anger was beginning to mount against the Verwoerd regime. Steps were being taken to bring about the expulsion of South Africa from the Commonwealth, and in March, 1961, the General Assembly itself, by a vote of 74 to 0, with 9 abstentions, censured the South African Government for its actions in South West Africa.

The Soviet delegate, Mr. S. G. Lapin, said the Assembly should immediately annul the mandate and hand the territory over to a commission of the in-

dependent African states. South West Africa, he said, **SHOULD GET INDEPENDENCE NOT LATER THAN THE FIRST HALF OF 1962.**

The General Assembly followed this up in April 1961 with more specific instructions to the South West Africa Committee. The General Assembly's declaration on the granting of independence to colonial countries and peoples, declares that immediate steps shall be taken to transfer all powers to such peoples, without any conditions or reservations. The deterioration in the situation in South West Africa caused by the Union's tyrannical policies and practices gave grave concern and "constitutes a serious threat to international peace and security", the General Assembly said and instructed its SWA Committee to "discharge the special and urgent tasks entrusted to it" — with or without the co-operation of the South African Government.

This motion was adopted by 84 votes to 0, with 8 abstentions. It is in pursuance of this resolution that the South West Africa Committee was visiting various territories in Africa, interviewing African refugees from S.W.A., and considering ways and means of entering the territory.

### Verwoerd Defiance

The Verwoerd Government once again adopted an attitude of defiance. Visas were once again refused to the members of the Committee, and Foreign Minister Eric Louw threatened to arrest them if they set foot in the territory.

He has, however, said he is prepared to allow an individual of international repute mutually acceptable to both sides to visit the territory to investigate conditions there and satisfy himself that they are not a threat to international peace.

Meanwhile wide-scale arrests in South West Africa and troop movements to Walvis Bay and along the Angola border continue, although both have specifically been condemned in General Assembly resolutions as violations of the mandate.

### United Nations Authority

The intransigent, granite-wall attitude of the South African Government, far from guaranteeing South African immunity, can only bring U.N. intervention nearer. Those very forces at U.N. to which Verwoerd constantly appeals for support — the Western, imperialist powers — are reduced to impotence in the face of South Africa's persistent refusal to carry out General Assembly resolutions, and the wilfully provocative statements and attitudes of Louw and Verwoerd.

Just as at the Commonwealth conference last April it was Verwoerd's refusal to budge a single inch which eventually

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# South West Africa and the United Nations

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compelled Macmillan and Menzies to agree to his expulsion, so now the General Assembly will be forced to exert its authority in the face of persistent and insolent South African defiance, however little some U.N. members may want to move at all.

To preserve the prestige and even self-respect of the U.N., South Africa will have to be brought to heel.

Britain's refusal to grant visas to the SWA Committee to visit Bechuanaland unless the Committee promised not to cross the border into South West Africa has already aroused a most unfavourable reaction amongst the Afro-Asian powers.

The April 1961 resolution of the U.N. General Assembly specifically asked members of the United Nations to extend to the South West Africa Committee "such aid as it may require in the discharge of these tasks."

Britain's action can hardly be construed as compliance with the General Assembly's wish, though it is in line with Britain's abstention in the Assembly votes both in December 1960 and in April 1961. But how much longer can Britain continue trying to help South Africa at the expense of her own relations with the Afro-Asian powers which are demanding ever more insistently that South African rule of South West Africa be ended forthwith?

What can the United Nations do to secure compliance with its resolutions?

There are only two courses: economic sanctions, and military intervention.

In the absence of any further initiative from Verwoerd, it is possible that sooner rather than later the U.N. will be compelled to intervene. Certainly it is unlikely that the U.N., if it continues to be insulted and humiliated by South Africa, will be persuaded to wait for the outcome of the International Court case before taking action.

## Dynamite for Granite Walls

Whether things will come to this pass, however, it is impossible to predict with certainty. There are so many imponderables. South West African Whites are already gravely alarmed, and last April the Windhoek Town Council adopted unanimously a motion by the Mayor that the South African authorities be asked to allow the United Nations Committee to visit Windhoek.

The smallest genuine move of conciliation on the part of South Africa might split the U.N. front wide open and allow the imperialist powers to plead for time.

Whether Verwoerd can be persuaded to make such a move remains to be seen. One rather doubts it. Granite walls don't budge easily and usually have to be dynamited out of the way.