



SOUTH AFRICAN DIPLOMATS ABROAD

THE S.A. DEPARTMENT OF EXTERNAL AFFAIRS

by

ERIC ROSENTHAL

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THE SOUTH AFRICAN INSTITUTE OF INTERNATIONAL AFFAIRS

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For further information consult
The General Secretary,
P.O. Box 9379,
Johannesburg.

Act No. 9
of 1944.

3. Section eight of the principal Act is hereby repealed and the following section substituted therefor:

'Acquisition and occupation of land by diplomatic agents and their suites and by representatives of foreign Governments, career consular officers and their families, staffs and servants

8. No law or condition in a title deed which prohibits the acquisition of land or an interest in or occupation of land by Asiatics or coloured persons shall be construed to prohibit-

(a) the acquisition, in the name of his Government, of land or an interest in land by any diplomatic agent, representative of a foreign Government or career consular officer, or

(b) the occupation of land by any diplomatic agent or his suite, or by any representative of a foreign Government or career consular officer, or the family, staff or alien servants of such representative or consular officer:

Provided such acquisition or occupation is for the purposes of the officer or residence of such diplomatic agent or his suite, or of such representative of a foreign Government or of such career consular officer within his consular district, or the family, staff or alien servants of such representative or of such consular officer within his consular district".

Amendment of section 9 of Act 9 of 1932.

4. Section nine of the principal Act is hereby amended by the deletion of the word "or" at the end of paragraph (c) and by the insertion after paragraph (d) of the following paragraphs:

- "(e) the representative of a foreign Government or career consular officer,
- (f) a member of the family or the staff of any such representative or consular officer, or
- (g) the alien servant of any such representative or consular officer".

Amendment of section 11 of Act 9 of 1932.

5. Section eleven of the principal Act is hereby amended-

(a) by the insertion after the definition of "suite" of the following definition:

"career consular officer" means any career consular officer received as such by the Government of the Union", and

(b) by the addition of the following definitions at the end thereof:

"representative of a foreign Government" means any representative in the Union of a foreign Government other than a diplomatic agent or consular officer,

"foreign government" includes the Government of India

Amendment of section 8 of Act 35 of 1932, as amended by section 10 of Act 30 of 1936.

6. Section eight of the Transvaal Asiatic Land Tenure Act 1932, is hereby amended-

(a) by the deletion, in sub-section (1), of paragraphs (a) and (b),

(b) by the deletion of sub-sections (3), (4) and (5)

and (c) by the deletion in sub-section (7) of the words "the consent mentioned in sub-section (3) or"

Short title

7. This Act shall be called the Diplomatic Immunities and Asiatic Land Tenure Amendment Act, 1944.

9/1932 D I A 1932

19/1934 D I A 1934

43/1941

9/1944 D I - A L T A 1944

Act No. 19
of 1934

(Date of commencement-5th April, 1934)

ACT

To amend the Diplomatic Immunities Act, 1932.

(Assented to 28th March, 1934)
(Signed by the Governor-General in Afrikaans)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:-

Amendment of Section 11 of Act No. 9 of 1932

1. Section eleven of the Diplomatic Immunities Act, 1932 is hereby amended as follows:-

(a) by substituting the word "counsellors" for the word "councillors" and inserting the word "chancellors" between the words "attachés" and "archivists" appearing in the definition of the expression "diplomatic staff" in the English text by inserting the word "kanseliers" between the words "attachés" and "argivarisse" and substituting the word "rade" for the word "kanseliers" now appearing in the Afrikaans text of the definition of the expression "diplomatieke staf".

(b) by deleting the definition of the expression "diplomatic agent" and substituting therefor the following new definition: "diplomatic agent" means the public representative of any other sovereign or state duly accredited as such to the Union and who is the chief or in charge of the legation or mission of such sovereign or state in the Union or any member of his diplomatic staff acting, during his absence, in his stead.

Short title. 2. This Act may be cited as the Diplomatic Immunities Act Amendment Act, 1934.

Act No. 43 of 1941.

Amendment of section 7 of Act 9 of 1932.

16. Section seven of the Diplomatic Immunities Act, 1932, is hereby amended by the deletion of the words "levied in respect of water, light, sanitary or similar services rendered direct to such person or to premises occupied by him and not for the purposes of the general revenue of such local authority".

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Foreword

THE Editorial Committee of the *South Africa and the World* series of pamphlets presents Mr. Eric Rosenthal's account of the history and present structure of the Department of External Affairs of the Union Government as an important first contribution to the study of this aspect of our international relations. Some readers may think that Mr. Rosenthal pays too much attention to the past; others, that he should have said more about the present. It seems clear to the committee, however, that most Union citizens have very little idea of the work or objects of the Department, and it was considered desirable that a short, balanced version of what has happened and what is happening should be published. Renan defined a nation as follows:—

“A nation is a spiritual principle, made by two things—the one in the present, the other in the past; the one the possession in common of a rich bequest of memories: the other a present sense of agreement, a desire to live together, a will to continue to make effective the heritage received as an undivided unity.”

South Africa in its virile young nationhood has much to do in the tasks of making its heritage effective, and not the least among these is the building up of a strong body of diplomats.

Mr. Rosenthal has wisely refrained from critical comment although many points arise, but the Editorial Committee hopes that with Mr. Rosenthal's introduction the subject may become the theme of many debates, in Parliament and in private.

W. J. BUSSCHAU,
Chairman, Editorial Committee.

Johannesburg,
30th July, 1949.

Preface

ALTHOUGH 22 years have passed since the Union of South Africa established its Department of External Affairs, no printed work on it has so far appeared. The subject has remained virgin ground save for incidental references in books on other subjects and a few typed memoranda.

My own task in preparing this survey, has involved working "from the foundations", and it is not claimed that every aspect has been covered. Particular thanks are due to Mr. D. D. Forsyth, Secretary for External Affairs, and to members of the staff of his Department, for the assistance they have provided from their office records, as also to Mr. Paul Ribbink, Librarian of Parliament, and to Mr. D. H. Varley, Librarian of the South African Public Library, Cape Town.

ERIC ROSENTHAL.

Cape Town.

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THE WRITER

South African journalist, biographer and broadcaster. Author of "Stars and Stripes in Africa", "General de Wet", "General Dan Pienaar", "Fall of Italian East Africa", "Gold, Bricks and Mortar", "African Switzerland", etc.

Beginnings of South African Diplomacy

THE Union of South Africa enjoys the distinction of having the most varied diplomatic history and probably the most elaborate diplomatic apparatus to be found amongst the members of the British Commonwealth of Nations. This is due, partly to the geographical situation of the country and partly to the circumstances of its development. Comparing the Union with Australia and New Zealand on the one hand, and with Canada and India on the other, it is worth noting that the external relations of the first two are in a very early stage of development while those of the latter already show considerable achievements. Perhaps this is the result of the essentially peaceful history of Australia and New Zealand and of the fact that their populations are, in the main, of homogeneous origin. Canada which resembles South Africa in having two major racial groups, has also been involved in a series of wars as battleground and participant, while India—for so long in the melting pot as far as its constitution was concerned—was forced to devote a surprising amount of attention to its external relations by the varied grouping of its inhabitants, frequent unrest on both sides of its borders, and the presence of powerful neighbours.

In a sense South African diplomatic history goes back to the birth of white settlement, for every contact between pioneers and native chiefs involved the use of the diplomatic art. It is no exaggeration to say that many of the early leaders—particularly those of the Voortrekkers—were negotiators of great ability. This gift was shown again when men of a later generation like President Kruger and Sir John Brand were acknowledged to be outstanding diplomatists even on the stage of world affairs.

In spite of this, however, the evolution of our South African "Foreign Office" is of much more recent date. Its beginnings go back to the nineteenth century and are intimately bound up with the rise of the Boer Republics in the Transvaal and the Orange Free State.

Relations between the Voortrekker settlements in Natalia (as their first community was called) and the British Crown gave rise to the earliest attempts to establish international contacts. For a long time Downing Street declined to admit that the Boers who had emigrated from the Cape had any status which would entitle them to negotiate at all. They were, in the words of

Governor Sir George Napier, "British subjects" and nothing more. Special proclamations were even issued to reaffirm the authority of the Crown outside the borders of the Cape.

Only about 15 years later the British Government, through its delegates, agreed to enter into the Sand River Convention. This preamble to that document contains the first halting recognition of the right of a group of South Africans to regulate their relations with a foreign power. It is described as :

"Minutes of a meeting held on the farm of Mr. P. A. Venter, Sand River, on Friday the 16th day of January, 1852, between Major J. W. Hogge and C. M. Owen, Esq., Her Majesty's Assistant Commissioners for the settling and adjusting of the affairs of the eastern and north-eastern boundaries of the Colony of the Cape of Good Hope, on the one part; and the following deputation from the emigrant farmers residing north of the Vaal River, on the other part"

The first real treaty on record in South Africa, apart from those with native chiefs or between the paramount British power and its former subjects, was between two states. It begins:

"Agreement between the Government of the South African Republic and the Republic of Lydenburg, to determine the unification of the two states, begun on February 26 and completed at Rustenburg, on November 23, 1859."

On July 29, 1869, the earliest treaty with a foreign power was entered into with the Kingdom of Portugal followed by one with the Orange Free State on August 1, 1872, and later others with Belgium, Holland and the German Reich. SAR / 600

The formalities of diplomatic intercourse and phraseology were punctiliously observed in Pretoria.

"The South African Republic and the Orange Free State, being desirous of drawing closer and strengthening the bonds of mutual interest and mutual friendship, which now so happily exist between the two Republics, and by all moment to encourage commerce between their citizens, have mutually agreed to enter into a Treaty of Friendship, Trade, and Extradition of Criminals"

The Orange Free State was as enterprising as its sister Republic, for as early as March 10, 1867, it signed a similar treaty with Portugal. This document was signed on behalf of the Republic by "Mr. Hendrick Antonie Lodewijk Hamelberg, Consul-General of the Orange Free State in the Kingdom of the Netherlands and, insofar as may be required for the present treaty, its diplomatic agent." The first formal agreement with Britain was the Convention of Aliwal, dated February 5, 1869,

and signed by President Brand and Governor Sir Philip Wodehouse.

Though the Orange Free State already had a consul there, the first treaty with Holland was signed in 1875, after one had been entered into with the U.S.A. This was dated December 22, 1871, the signatories being the State Secretary at Bloemfontein, Mr. Friedrich Kaufman Hoehne, on the one side and Mr. Willard W. Edgcomb, "Special Agent for the United States and its Consul at the Cape of Good Hope", on the other. OFS - USA

Elaborate provisions were included in these and other foreign agreements concluded by the Boer Republics, guaranteeing the inviolability of consuls and their officials as well as of their records.

The Portuguese took the lead by appointing a consul in the Transvaal in the late sixties, but the exchange of such officers proceeded slowly and it was not thought necessary to have a Transvaal consul in Lourenco Marques until the construction of the Delagoa Bay Railway was seriously taken in hand in the eighties.

The discovery of the Witwatersrand goldfields led to a great spurt in diplomatic progress, especially in the Transvaal. It was found essential to appoint a "Minister Resident for Germany, France and Portugal" in the person of Jonkheer Beelaerts van Blokland at the Hague. There was also a Transvaal Consul-General (a new grade) in London, Dr. B. G. Clark, a British Member of Parliament. Mr. F. R. D. D'Albreu was consul at Lourenco Marques and Mr. Ernst George held the same office in Lisbon. Ralph Williams, "Diplomatic Agent for Great Britain" was the senior foreign representative in the South African Republic. Portugal and Holland each had consuls-general while Belgium, Switzerland and France were content with consuls at Pretoria.

A new departmental organisation also appeared in the South African Republic. Until then all negotiations with foreign countries had been conducted by the State Secretary, as head of the civil service, as was also the practice of the Orange Free State. At this time the office was held by Dr. Willem Johannes Leyds and his department was now split up to allow for the appointment of Mr. Cornelis van Boeschoten as "Under-Secretary for Foreign Affairs". Thus the Transvaal created the first true "Foreign Office" in our history.

Some idea of progress made can be drawn from a staff list dated 1897, soon after the Jameson raid. In addition to the "Under-Secretary of Foreign Affairs" himself, drawing a salary of £1,000 a year there was an establishment of 13 clerks, their scale of pay ranging from £275 to £600 a year. The post of Minister Extraordinary at the Hague, previously held by Beelaerts van Blokland, was vacant, but still existed, the staff

including a "Technical Adviser" and Vice-Consul at Amsterdam and a Vice-Consul at the Hague. The Republic had one Consul-General and Vice-Consul in London, another in Paris, another in Berlin, besides Consuls at Hamburg and Frankfurt-on-Main. In addition the Transvaal maintained its Consuls-General in Lisbon and Brussels, and Consuls at Funchal (Madeira), Lourenco Marques, Durban and in Italy. The list of foreign representatives in the Republic had increased substantially. There was now a British Vice-Consul at Johannesburg in addition to the British Agent, W. Gonyngham Greene, at Pretoria. There was an Italian Consul, one for Sweden and Norway (still united under the same Crown), a Consular Agent on the Rand for the United States and, strange to say, an acting Consul for the Independent Congo Free State which had not then been annexed to the Belgian Crown.

The outbreak of the South African War did not find the Republican Governments unprepared in the diplomatic field. Dr. Leyds, a Hollander who had served the Transvaal for many years, was selected to become its new Minister with a field of operations covering the greater part of Europe. He resigned his position as State Secretary in 1898 and was immediately given a permanent overseas appointment. President Kruger's Government accredited him to France, Belgium, Russia, Italy, Austria Hungary and other countries.

Dr. Leyds set out his status very clearly in a telegram despatched in reply to an official American enquirer on the eve of the war:

"Brussels, October 11, 1898. In order to prevent misunderstanding allow me to explain that my appointment is not that of ambassador, like that of the representatives of Great Powers, but of Minister Plenipotentiary. *to the Belg. Res. It. Austria Hungary*

no "In the Convention of Pretoria (1881) Her Majesty reserved to herself the control of external relations, including the conclusion of treaties and the conduct of diplomatic intercourse with foreign powers, such intercourse to be carried on through Her Majesty's diplomatic and consular officers abroad. In the Convention of London (1884), which did away with that of 1881, this right of Her Majesty was abrogated.

"Lord Derby, at that time Her Majesty's Minister for Colonies, explained the rights of the Republic under the new Convention of 1884 as follows: 'Your Government will be left free to govern the country without interference and to conduct its diplomatic intercourse and shape its foreign policy, subject only to the requirements, embodied in article IV, that any treaty with a foreign state shall not have effect without the approval of the Queen.' Great Britain had recognised Beelaerts van Blokland, who was appointed Minister Plenipotentiary of the Republic in 1884 (His title was Minister

Resident in the first years). The treaties with foreign powers signed by him in his abovementioned capacity were approved by Her Majesty in terms of article IV of the Convention of 1884. While on this subject I may add that the Republic had appointed its consuls throughout Europe and that for the appointment of a Consul-General in England and Consul in Durban exequatur was granted by the British Government. Likewise England has asked exequatur for English consular officers in the Republic."

In the light of this authoritative statement it is clear that the Union of South Africa enjoys a greater degree of freedom than did the nominally independent Boer State. The approval of the Crown was necessary to ensure the validity of any treaty signed by the South African Republic but no such provision applies to the Union which acts as a fully sovereign power.

During the South African War Dr. Leyds, in effect, represented both of the Republics, and his activities in this capacity were supplemented, but not superseded, by those of the famous Delegation of Three, which proceeded to Europe and the United States, but did not enjoy diplomatic status. As the fortune of the conflict went against the Boers Leyds' position became more and more precarious until finally his offices ceased to function.

It is, however, remarkable that the Legation of the South African Republic did not officially disappear until several months after the signing of the Treaty of Vereeniging. The peace was signed in May, and the legation was closed in August, at the time of the visit by Boer delegates to President Kruger in Holland.

The wording of the preamble of the Treaty of Vereeniging has great diplomatic significance. Unlike the document which ended the Second World War with Germany it is drafted as an agreement between equals.

"General Lord Kitchener of Khartoum, Commanding-in-Chief, and His Excellency Lord Milner, High Commissioner, on behalf of the British Government,

and

"Messrs. S. W. Burger, F. W. Reitz, Louis Botha, J. H. de la Rey, L. J. Meyer and J. C. Krogh, acting as the Government of the South African Republic,

and

"Messrs. W. J. C. Brebner, C. R. de Wet, J. B. M. Hertzog, and C. H. Olivier, acting as the Government of the Orange Free State,

'On behalf of their respective Burghers,

'Desirous to terminate the present hostilities, agree on the following articles'

The old Boer regime had ended, but it did so with honour.

Colonial status and Foreign Affairs

*Zimbabwe
Mozambique
Convention 59*

THE establishment of an all-British regime in South Africa might well have been a retrograde step in the diplomatic evolution of the country but, in actual fact, this was less so than might have been expected. Once again the forces of economic interest and geography involved local governments in negotiations with foreign powers.

The first example of this was the development of intercourse between the Transvaal and Mozambique. The supply of labour from Portuguese East Africa for the mines of the Witwatersrand and the exchange of goods between adjoining territories, as well as the steady increase of imports and exports via the port of Lourenco Marques required embodiment in proper diplomatic form.

While fighting was still in progress between Boers and British in November, 1901, Lord Milner had written to Mr. Joseph Chamberlain as Colonial Secretary:

"There are only certain tribes among whom underground workers can be found in any great numbers, and these reside mostly in Portuguese territory. As you are aware, difficulties have arisen about the introduction of Portuguese natives and the matter is at present the subject of negotiations between the Governor-General of Mozambique and myself. . . ."

Here it is significant that it was Lord Milner, as High Commissioner in South Africa, who had to advise his chief, Mr. Chamberlain, of what negotiations were in progress on the spot. It became plain in practice that a certain amount of independent action was unavoidable even under the Crown Colony regime. The discussion resulted in a preliminary international agreement between the Transvaal and Mozambique signed in December, 1901 and known as the "Modus Vivendi". This document was based on the original treaty of 1875 between the South African Republic and Portugal.

Examination of the phrase "modus vivendi" shows that it is "a temporary provisional agreement, usually intended to be replaced later on, whenever it may prove feasible, by one of a more permanent and detailed character. This sometimes consists of an agreement signed by both parties or even of a convention but more often of an exchange of notes".

Although the over-riding authority of the Foreign Office was there in the background the fact remained that, through Lord Milner, South Africa had concluded an international agreement. In 1909 it was replaced by the Mozambique Convention which, renewed and varied from time to time, has remained in force up to the present.

1927

A convention is not as clear an indication of self-administration as is a treaty, but it is a signpost of progress. It is worth while drawing attention to the preamble of yet another convention entered into by the Cape Colony, enjoying self-government but not dominion status, and the independent Republic of the Orange Free State. It was signed by Governor Sir Hercules Robinson and President F. W. Reitz respectively, on April 5, 1889.

“His Excellency the Governor of the Cape of Good Hope and His Honour the President of the Orange Free State, on behalf of their respective governments have agreed upon the following articles. . . .”

On that occasion both sides were represented by the nominal heads of the countries concerned and not by diplomatic representatives. There was already a precedent, however, for the conclusion of treaties between self-governing colonies of the British Empire and foreign powers. This was the so-called “Fisheries Treaty” entered into by Canada (represented, it is true, by Britain) and the United States, regulating the fishing operations in neighbouring territorial and other waters. An international dispute had caused the mutual seizure of ships after which a settlement was arrived at and a treaty signed in Washington on February 15, 1888. Contrary to all ideas then prevalent it was ratified by the Canadian Parliament on May 2nd. of same year, and received the Royal assent a fortnight later. (Unfortunately the United States Senate refused to approve it.)

The precedent was carried further five years later when Canada concluded a reciprocity treaty with France, although still using the machinery of the British Foreign Office. In 1896 there was a further treaty with the United States to settle disputes about the Behring Straits.

The importance of these developments were not lost on observant students of the constitutional development of the British Commonwealth.

Quite apart from the Boer Republics the Cape entered the field of diplomacy through another channel. Probably for the first time on record the British Government consulted a colony on a diplomatic question. It arose from the activities of Adolf Luderitz and other German subjects on the desolate coast of Damaraland. We are still suffering from the effects of the sequel to-day, eloquent evidence if any is needed, of the way the sins of the fathers (and grandfathers) are visited upon their descendants. The defeat of the South African proposal for the incorporation of South-West Africa put before the Assembly of the United Nations in 1946, was the aftermath of a correspondence between the Cape Government and Downing Street more than sixty years earlier. In 1880 the British authorities announced:

On July 9th, 1884, weeks too late, Sir Hercules Robinson cabled once again:

"Ministers request me to send message in the following terms: Begins: 'As parliament will soon be prorogued Ministers are anxiously awaiting information relative to negotiations with German Empire on question of West Coast, referred to in your telegram received on the 18th June. Ministers advise me that feeling in Colony strongly in favour of retention of British authority over coastline from Orange River upwards, and that the rumours that British jurisdiction over Walwich¹ Bay is to be abandoned has caused great uneasiness. Annexation of Damaraland to German Empire is to be greatly deprecated. Ends!'"

The man of Blood and Iron allowed no one to take liberties with him, as South Africa learnt too late.

We in this country learnt that even general elections, no matter of what epoch-making local importance they may be, play a very minor part in international affairs and realised the need for men of suitable calibre to deal with external affairs. Sir Hercules Robinson knew enough to gauge the position but one is not so sure about all the members of the cabinet of that time or about the civil service. It was the first occasion on which we, as a very young country, were what the Americans call "outsmarted" in international affairs. It is interesting to note that the Americans are still very conscious that the quality of some, though by no means all, of their diplomats places them at a disadvantage, and this accounts for the acerbity and isolationist tone of some of the debates in Congress. The advantage of a country with a long diplomatic tradition in dealing with a newcomer is recognised as a very real thing, for both the mighty United States and a small country like South Africa. We had a further experience of this in more recent times when we discovered that a revised Mozambique Convention, negotiated soon after the First World War, had somehow been turned very much to our disadvantage and to the advantage of Portugal by the skill of her more experienced delegates.

There is only one remedy—to continue to gather experience and to obtain for our Foreign Service the best men South Africa can offer.

Founding of the Department of External Affairs

THE first Colonial Conference (afterwards called the Imperial Conference) shortly after the South-West African debacle, coincided with the Queen's Golden Jubilee. It gave the British

¹ This spelling was frequently used on English documents and maps in Victorian times.

1887 Imp Conf + 2 4 2
1914 War Cals.
1919 Vers. League

Government a chance of strengthening what would, to-day, be called the "diplomatic front" of the British Empire. Subjects arising directly from foreign affairs came up for detailed discussion and helped to align a world-wide policy according to a uniform pattern.

The watchword of the day was "Imperial Federation", an idea which was later vigorously and almost successfully championed by Joseph Chamberlain. Statesmen already envisaged an "Inter-Imperial" Parliament meeting in London, to which the making of foreign policy would be entrusted. Despite the schemes for customs unions and other measures of unification the question of independence in diplomatic affairs was occasionally touched on. On the question of tariff treaties favouring foreign nations Sir Samuel Griffith, Premier of Queensland, told the Colonial Conference of 1887:

"In cases such as these the Imperial Government is at liberty to allow differential tariffs or to refuse such freedom. Well, if it should refuse permission, a feeling of discontent will be awakened, under which the unity of the Empire will probably suffer but, on the other hand, I am almost afraid that if it is granted the unity of the Empire will be in equal danger . . . Should a colony find that a foreign power will grant it privileges and advantages from a revenue point of view, which it will not receive from the mother country, it stands to reason that it will give preference where it will secure the means of existence . . ."¹

Illuminating views were expressed at the time of the Diamond Jubilee in 1897, when the late W. T. Stead, the great British journalist, inquired whether: "under the treaties concluded by Great Britain with Belgium and Germany the whole British Empire is bound to extend to all imports to Belgium and Germany the best terms conceded to most favoured nations." He expressed no final judgment but added: "Out of all this has sprung a further important question, namely as to whether the self-governing colonies which have the right to regulate their own fiscal policy are to be bound by a treaty made by the Imperial Government in which they are not represented . . ."² This was a revolutionary proposition made, as it was, well within the Victorian era.

¹⁹⁰⁷ The Prime Ministers of the Empire met on later occasions, notably in 1907 when the expression "Imperial Conference" was first officially employed. At these meetings the idea of an Imperial Council to handle, among other matters, a common foreign policy, was turned down. Sir Harry Johnson, the African explorer and administrator, favoured an "Imperial Council" to

¹ "Once Jan", by J. H. Hofmeyr.

² Review of Reviews, May 1897, p. 419.

1925 *Review*
1926 *Doms Eff*
Balf. *1 cor. off*

be financed out of an "Imperial Treasury" and which would run a joint diplomatic service.

The first and nearest approach to such a body was the Imperial War Cabinet which came into being during the First World War and of which General Smuts became a prominent member. As its title indicates its main purpose was military and, although it subsequently played a part in treaty making, it marked little progress in the Union's diplomatic development. A real advance was made in 1919 when the nations sent their delegates to Paris to frame the Treaty of Versailles. *SA = Substantive power*
"Br. Emp." 1914?
1919.

South Africa, the other Dominions and India obtained their first indisputable and universal international recognition as states possessed of full sovereignty and diplomatic status. The change was in the preamble and termination of the Treaty:

"The United States of America, the British Empire, France, Italy and Japan,—these powers being described in the present Treaty as the Principal Allied and Associated Powers,

"Belgium, Bolivia, Brazil, China, Cuba, Ecuador, Greece, Guatemala, Haiti, the Hedjaz, Honduras, Liberia, Nicaragua, Panama, Peru, Portugal, Roumania, the Serb-Croat-Slovene State, Czechoslovakia and Hungary—these powers constituting with the principal powers mentioned above, the Allied and Associated Powers,

of the one part
and Germany
of the one part"

For this purpose the High Contracting Parties represented as follows by

"The Union of South Africa by:

General the Right Honourable Louis Botha,
Minister of Native Affairs and Prime Minister;
Lieutenant-General the Right Honourable Jan
Christian Smuts, K.C., Minister of Defence,

"Who have communicated their full powers, found in good and due form have agreed as follows:

"In faith whereof the abovenamed Plenipotentiaries have signed the present Treaty."

The Treaty of Versailles actually commences with the Covenant of the League of Nations, so that the signature of the Union was affixed to its constitution simultaneously.

It will be noticed that the Treaty still speaks of the "British Empire" as a unit, without specifying the name of the Union or any other Dominion in the preamble but in the list of signatories

1927 History HCB

South Africa has an independent place. After the passing of the Statute of Westminster the preamble would have been differently phrased in this respect.

As a foundation member of the League of Nations South Africa found itself involved in sittings and committee meetings at Geneva and, in order to participate, it was necessary to set up some kind of external affairs organisation. The Union also became a Mandatory Power in respect of the territory of South-West Africa.

in answer Much criticism was aroused in the Union when the provisional Treaty of Sèvres, ending the state of war with Turkey, which had been signed by the Union, was replaced by the Treaty of Lausanne, because the Union did not participate in the negotiations or sign the second document. It was quickly realised that a faux-pas had been made and the Dominions were asked to sign the treaty retrospectively. General J. B. M. Hertzog, always a protagonist of higher status for the Union, was not satisfied and demanded something more definite to prevent a recurrence. Another grievance was that the country's relations with London were still under the Colonial Office.

1925
926 Britain realised that this state of affairs must be changed and, in 1925, set up a separate Dominions Office. Meanwhile General Hertzog had become Prime Minister and was able to give effect to his views on international affairs. He attended the Imperial Conference of 1926 and there secured the famous declaration by the Balfour Committee that the Dominions:

"are autonomous communities within the British Empire, equal in status, in no way subordinate one to another in any aspect of their domestic or external affairs, though united by a common allegiance to the Crown, and freely associated as members of the British Commonwealth of Nations".

Various other diplomatic developments had helped to bring matters to a head. The earlier concept of the "unity of a group" had, in the view of General Hertzog, proved a failure.

"The most convincing proof of this," he declared, "we find in the Locarno Treaty, recently concluded. This treaty was entered into by the British Government in direct conflict with the principle on which the group idea is based so that it was found necessary to exclude the Dominions from any responsibility arising from it, and also to give each Dominion separately the choice of accepting or refusing the Treaty . . ."

Mr. L. S. Amery, as first Secretary for Dominion Affairs, after recognising Dominions claims to general recognition of their status in foreign affairs and representation wrote:

"Naturally the fact that the people of the British Commonwealth have developed by evolution has penetrated less strongly

to the outer world and it will take a little time before the foreign governments will remember that, if there are conferences, all His Majesty's Governments are entitled to be present and in other business each of His Majesty's Governments is entitled to those demonstrations of courtesy to which every sovereign state is entitled."

He promised that his Government would "do its utmost to make foreign governments better acquainted with the situation."¹

Events had meanwhile brought the Union into the full current of diplomatic intercourse. Since 1919 she had been contributing to, and taking part in, the deliberations of the League of Nations at Geneva. The Union had also been represented at a meeting of the International Labour Organisation in 1919 and had continued to be so at subsequent meetings. Every year South African delegates were present at the gatherings of the Permanent Mandates Commission to submit a report on the administration of South-West Africa. Many international conventions on such matters as habit-forming drugs, the white slave traffic, copyright, trade marks, education, etc., carried the signature of South African delegates.

As a direct result of the acceptance of the new concept of Dominion Status set out in the Balfour report and the action of the Imperial authorities which resulted from it the following announcement appeared in the "Union Government Gazette" of June 3, 1927:

"No. 915

31st May, 1927.

31/5/27

Notice is hereby given for general information that His Excellency the Governor-General-in-Council has been pleased to approve of the establishment, under section 14 of the South Africa Act 1909, of a department of External Affairs in the Union, as from 1st June, 1927, and to assign the administration thereof to General the Honourable James Barry Munnik Hertzog, Prime Minister of the Union of South Africa, with the additional designation of Minister of External Affairs" The same Gazette carried another item:

"No. 916

31st May, 1927

"Notice is hereby given for general information that His Excellency the Governor-General-in-Council has been pleased to approve, in terms of section nine sub-section (1) of Act No. 27 of 1923, of the following appointment: Hølgard Dewald Johannes Bodenstein, LL.D., as Secretary to the Prime Minister as from 1st June, 1927."

A few days later the "Cape Times" devoted a leading article to the subject headed "Foreign Affairs".

¹ "Life of General Hertzog", C. M. v. d. Heever, p. 483.

"To-morrow", wrote the newspaper, "the House of Assembly is to discuss the resolution of the Imperial Conference, establishing as an accepted doctrine the autonomous status of the Dominions and South Africa among them. Thus, we think, the South African Parliament will be the first to discuss the Imperial Conference declaration and the eyes of the whole British Commonwealth will be upon the House of Assembly. It is an excellent thing, we believe, that there should be a full discussion in the Union Parliament on this subject. . . . Almost simultaneously with this debate the Government has created a Foreign Affairs Department, under the Prime Minister, with Dr. Bodenstein, a professor at Stellenbosch University, as its permanent head. . . . One result of the creation of the new Department, it is to be hoped, will be considerably more publicity on the part of the Government, as to its communications with Great Britain and foreign countries. . . . The Union, as a partner of the British Commonwealth has no need to be in a hurry to show off among the other nations. There may, of course, be occasions when it will be bound to let other nations know what its position is—such an occasion came to General Smuts at the time of the Washington Conference—but they should be waited for, and the new department should not go looking for opportunities for ostentation, either within the Union and the British Commonwealth or outside its borders."

The new External Affairs office was tested very early. The direct cause was the problem of the Angola Boers who had emigrated from the Transvaal in the eighteen-seventies but still regarded themselves as linked with South Africa. Arrangements were being made to help them to find a home in the Union or South-West Africa. The Union Government at Pretoria appointed a consul in Angola as its representative on the spot. In spite of the Mozambique Convention, which was due for renewal in September, 1928, the Portuguese declined to recognise his status.

When the budget estimates for the first time made provision for the Department of External Affairs a debate arose in the House of Assembly which gave the Prime Minister, General Hertzog, and the Leader of the Opposition, General Smuts, an opportunity to explain their views.

Mr. J. W. Jagger started the discussion with a query: "What is this amount for the Department of External Affairs? Is it a new vote? Further, with regard to this consul for the Union in Angola. What value do we get out of this? Surely we don't get £1,000 worth of value. There is very little trade done up there from here." Supporting Mr. Jagger Mr. Leslie Blackwell added: "I understand the Portuguese Government have refused to recognise this official. He was appointed to

look after the interests of the Trek Boers, but the Portuguese Government refused to recognise him in any way. . . ."

General Smuts put the attitude of the Opposition: "Now that the Prime Minister has come in I should like to put a few questions to him in regard to this vote No. 4. I should like to know in regard to the Consul for the Union of South Africa in Angola whether he has been appointed and whether he has been recognised by the Portuguese Government. . . . The Prime Minister might also tell us about this increase of £2,200 for the secretary and staff of the Department of External Affairs. This is a department which has been started recently. I believe that the appointments have been made since the last session of Parliament. I should like to know what has been the justification for this department and this additional staff which is now required. The Prime Minister's Department has for a number of years been carrying out and administering the external affairs of the Union. This has been for a number of years and done, I hope, with a fair amount of efficiency. The only changes which have taken place in the administration are the appointment of the consul in Angola and the Trade Commissioner in America. To found a department to carry out such puny expansion seems to me a pure waste of money. . . ."

To this General Hertzog replied: "Of course if I took up the attitude of the Honourable Member for Standerton, that the Department of External Affairs is unnecessary, then the vote is also unnecessary. Then everything ought to be deleted, but the Government unfortunately follows a different line, and that is why the department is created. I always thought that the Honourable Member agreed with us, but to-day we learn for the first time that he objects to the Department of External Affairs. I always differed from the Honourable Member and it looks as though we are still differing. . . . I am much surprised that he should now ask why such a Department was created. I just wish to add that this Department does not add a single pound to the previous expenditure. . . . The Governor-General is no longer the representative of the British Government in South Africa but solely of His Majesty the King. Therefore all the work of the Office of the Governor-General for the British Government, all the communications between that Government and ourselves no longer takes place between him and the British Government, but between the Government and the British Government, that is between Government and Government, with the result that the work of the Office of the Governor-General has merely been transferred to the Department of External Affairs. On July 1st last the advice of the Imperial Conference was put into practice. There is, therefore, no new expenditure. A great part of what the Governor-General's Department paid for before is now paid for by the Department of External Affairs.

"I want to say a few words", continued General Hertzog, "about the consul in Angola. . . . Provision was made for this

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eighteen months or two years ago. The matter actually started before we came into office (1925), when it was brought home to us that the people there were very unhappy, that they were not getting the treatment which would give them the chance of progress. Our Government then thought that it would be best to appoint a consul there with whom we could be in communication, and who would be able to do what was necessary for the people. We also asked the approval of the Portuguese Government to appoint a certain person who was living in Angola. Unfortunately we were notified that the Portuguese Government could not agree to the appointment of that person. Well, he was the only person living in Angola whom we could appoint for the purpose. When we could not get his appointment approved, we saw that it would be necessary to send someone from the Union, and it goes without saying that we could not get such a person for the £500 we wanted to give to the person living there.”¹

The deadlock was ended by the Angola Boers themselves, who decided, almost without dissentients, to trek away from the country. Consuls were soon appointed elsewhere and there were no further difficulties with foreign powers. Formal jurisdiction was conferred by Government Notice No. 321, dated February 22nd, 1928:

“It is hereby notified for general information that all matters relating to foreign consuls in the Union of South Africa will, from 1st March, 1928, be controlled by the Department EA. of External Affairs. All communications relating to consular matters should, on and from that date, be addressed to the Secretary for External Affairs.”

At the head of the Department stood the Secretary for External Affairs. Second in command was an Assistant Secretary for External Affairs, who also functioned as clerk of the Executive Council and Secretary to the Prime Minister. At the outset external and diplomatic matters were attended to by three sects sections: the External Relations, the League of Nations and Translations, and the Entertainments Sections. The administrative personnel consisted of the following sections: a Parliamentary and Coding Section, and a Records and Staff Section, a Records Section, an Executive Council and Library Section, and a Messenger Section.

As from September 1, 1929, the post of Assistant Secretary was converted to that of Under-Secretary. As from October 27, 1933, a separate officer was entrusted with the function of clerk of the Executive Council. The post of Professional Adviser (International Law) was created as from January 1, 1929. It was only filled intermittently and has since been found redundant.

¹ Debate taken from Hansard: Vol. X, 1927-28, Col. 152ff.

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In 1932 the Entertainments Section was abolished and the External Relations and League of Nations and Translations Sections were amalgamated to form one External Relations Section. Subsequent reorganisations and the division of functions have resulted in the present-day organisation which is described in detail in a later chapter.

As soon as the department was in working order no time was lost in making diplomatic appointments. The existing machinery of the High Commissioner's Office in London (about which more will be said in due course) required no important changes. From 1922 on there had been a Trade Commissioner for the Continent of Europe who was moved to Milan in 1925.

1929. Three foreign capitals were selected for the first fully fledged South African Legations. They were Washington, the Hague and Rome, to which Ministers Plenipotentiary were appointed in 1929. Five years later another group was added, namely, 1934 Paris, Berlin, Stockholm, Brussels and Lisbon, but these included some representatives of lower status. Stockholm was placed in charge of a Secretary, under the orders of the Minister in Berlin, the representative in Brussels was in a similar relation to the Minister at the Hague, while Lisbon fell under Paris. Changes were made in 1939 when an Envoy Extraordinary and Minister Plenipotentiary was appointed to Lisbon.

1937. The outbreak of the Second World War caused the closing of the legations at Berlin and Rome followed, after the German occupation of France and the Low Countries, by those in Brussels, the Hague and Paris. Till the end of the war Stockholm and Lisbon remained the principal centres of South African diplomatic activity on the Continent.

In the inter-war period increasing activity in the League of Nations and associated bodies caused the Union Government to station a permanent "Accredited Representative" at Geneva, while in 1937 and 1938 the South African Delegate, Mr. Charles te Water, had the honour of being made Chairman of the Assembly of the League.

Soon after the establishment of the Department of External Affairs consuls were appointed successively in Hamburg and New York. Since then an almost world-wide chain of consular representatives has been built up, High Commissioners have been appointed to other members of the British Commonwealth, and other representatives such as Trade Commissioners have been appointed.

South African Representation in London

THE first efforts of the Cape to be represented overseas, otherwise than through the Colonial Office, appear to have been made through certain firms in the city of London. These

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2ND Ed. N. London firms - banking

were prepared, on behalf of the colonial Government, to discount bills drawn by the British Crown on the Army and Navy agents and issued to officers at the lower end of Africa at the beginning of the nineteenth century, at which time Cape banking was practically non-existent.

1770—
During the ¹⁷⁷⁰seventeen-nineties and early eighteen-hundreds the old "Board of Plantations" tried in a lumbering way to represent the interests of the Cape and some dozen other colonies. When the 1820 settlers were due to leave Britain, special immigration offices were opened in London at which would-be travellers were invited to give an account of themselves. Here a large emergency staff worked for many months of 1818 sifting the applicants until they had selected the 4,500 who eventually sailed from the 90,000 citizens who applied for leave to go to South Africa.

This was an abnormal rush of business and, for some years after it, there was nothing which might be regarded as a forerunner of South Africa House. In the late eighteen-twenties, however, Mr. T. P. Courtney was appointed as "Colonial Agent" for ^{Cape} the Cape of Good Hope, at a salary of £600 yearly, until the Governor, Sir Lowry Cole, decided that the entire business of the South African community did not warrant such an expense. Hence on April 1, 1833, Mr. Edward Barnard took the place of Mr. Courtney.

The size of the newcomer's salary—£200 per year—gives an idea of the modest nature of his duties and of the accommodation provided for him. It does not seem that the Cape Treasury saw fit to make any further grant towards the maintenance of our prestige overseas.

A little room on the premises of the Colonial Office—under the supervision of Mr. Barnard—sheltered the agencies of other insignificant British possessions, such as the Falkland Islands and New South Wales. Not long after, however, a slight improvement was made and South Africa was individually represented for the first time. Mr. Edward Barnard was given Mr. Bailey as a helper, and between them these two men ran the greater part of the business of the British Empire in London. Their "Agency-General", including a room devoted to the Cape, was at No. 5a Spring Gardens, a poky little house in one of the worst quarters of the metropolis. Here, as recently as 1904, there survived the last remnants of the ancient sanctuary for criminals, known as "Alsatia", which Sir Walter Scott described so vigorously in "The Fortunes of Nigel". It was exacting work, representing South Africa in London in victorian days, in a neighbourhood where policemen worked in pairs for safety's sake.

After 20 years of hard work the Cape Treasury raised Mr. Barnard's remuneration by £10 yearly. Generally speaking the

office seems to have been well run, with less than half a dozen clerks to attend to the whole of the country's affairs. To-day there are over a hundred.

By the beginning of the nineteenth century Natal and British Kaffaria had come into being and opened small establishments of their own. In 1854 the Cape Parliament was established and the colony was expected to open an "Agent-General's Office" like that of other colonies to mark the improvement in its status. The Government, however, liked the economical regime of Messrs. Barnard and Bailey and for years made no change.

At last, in 1859, Mr. W. C. Sergeant, who had had been Lieutenant-Governor of Natal, became Agent-General jointly with Mr. Penrose G. Julyan. Soon after the clerks ceased to have the office at Spring Gardens to themselves. Engineers, particularly specialists in railways and telegraphs joined the staff. One of these was Mr. (later Sir) William Preece, one of the pioneers of radio.

Early in the eighteen-seventies the Cape moved its London headquarters to No. 7 Victoria Street, Westminster, a far more respectable neighbourhood than Spring Gardens. Recruiting for the famous Cape Mounted Rifles was carried on here. Downing Street appointed Mr. (later Sir) Montague Ommaney, late of the Royal Engineers, together with Mr. E. E. Blake to handle the affairs of minor colonies including Natal.

The staffs were still on a very modest scale. In 1885, when the Cape Office was at Albert Mansions, the establishment comprised the Agent-General, Captain (later Sir) Charles Mills, who received £1,200 yearly, and four clerks. Even at this stage visitors to London grouched in the colonial press about the "six months old newspapers" and the "officials who try to keep their empty heads".

Under Sir Charles Mills there was a further trek to 46, Victoria Street, and then to 112. All the colonies seemed to crowd together there. New Zealand and the several states of Canada and Australia, Natal and even the independent Transvaal and Orange Free State all had their offices at No. 72 or 121.

c 1910

1910- After the Act of Union Mr. W. P. Schreiner was appointed as the first Union High Commissioner in London but it was not until 1920 that the Union's representative left this Imperial neighbourhood for Trafalgar Square.¹⁹²⁰ During the First World War South Africa House—so called during the High Commissionership of Sir Charles Solomon—was a rendezvous for thousands of South African soldiers and their dependents. From 1920 to 1930 Morley's Hotel, which had been a famous hostelry in Thackeray's London, served the country's needs until a magnificent block designed by Sir Herbert Baker was

completed on the same site and the Union's London representatives moved into their present quarters.

To-day the High Commissioner's office is a highly organised department, with a staff including a Political Section, a Publicity Section, one handling Finance and Government loan transactions, a Tender Engineers Section, a Public Relations Section, besides a reading room for South African visitors and facilities for immigrants.

World of Diplomacy in which South Africa plays Her Part

IN order to understand properly the work of the Union Department of External Affairs it is necessary to understand some of the diplomatic expressions in general use and the nature of diplomatic relations and activities.

Fortunately, questions of diplomatic precedence on ceremonial and other occasions which, in bygone times, frequently caused international friction, have lost their meaning and practical importance.

The "Right of Legation" is, however, still of great importance since it signifies the right of a country to send diplomatic agents to represent its interests in other states and, reciprocally, to receive such agents. The mere fact that South Africa maintains foreign legations is visible and conclusive proof that she has attained full status as a nation, the ultimate reason why General Hertzog was so insistent on their establishment. So-called semi-sovereign states have never had this right in full measure. For instance, before 1914, when Egypt was still part of the Turkish Empire, under the Khedive or Hereditary Viceroy, she was very nearly master in her own house. . . . The limitation appeared in her inability to have "permanent missions" abroad although it was even possible for her to conclude treaties. The principality of Roumelia, the nineteenth century forerunner of Roumania, was in a somewhat similar position.

Exchanges of diplomatic representatives do not always take place on a reciprocal basis. Thus the Soviet Union has had a Consulate-General in the Union for a number of years, but at the time of writing the Union has not established diplomatic representation in Moscow. The Holy See (that is: the Vatican) maintains diplomatic missions in some states but the Apostolic Delegate to the Union does not enjoy diplomatic status although the Vatican is, in international law, a sovereign state.

South Africa's own status has now been so clearly recognised by the major powers that there is little, if any, likelihood of a rebuff from any other country. This is the result of the exchange of missions with the United States and other important countries

at the very beginning of the history of the Department of External Affairs.

The Union and other members of the British Commonwealth, as well as the United Kingdom itself, still prefer to call their representatives accredited to each other "High Commissioner". The use of this term goes back to 1846 when Sir Harry Smith, as Governor, was also appointed: "Her Majesty's High Commissioner at the Cape of Good Hope for certain purposes"—chief among them being to negotiate with the emigrant Boers now known as the Voortrekkers.¹ The main duties of the High Commissioner continued to be diplomatic such as dealing with foreign powers and native chiefs. Later the holder of the title, for reasons of convenience, also assumed what was really the "governorship of the native territories outside the main colonies (now the Union) and these offices are still combined to-day.

When Lord Milner was appointed High Commissioner on October 6, 1900, his instructions authorised him to:

"Transact in Our name and on Our behalf all business which may be lawfully transacted by you with the representative of any Foreign Power in South Africa. . . . to do all such things as appear to you to be advisable for maintaining Our possessions in peace and safety, and for promoting peace, order and good government of the tribes aforesaid, and for preserving friendly relations with them. . . ."

HC. 57
HC. 48
HC 3 1/2

Direct contact exists between the United Kingdom High Commissioner and the Union Minister and Department of External Affairs as also between the Union High Commissioner in London and the Commonwealth Relations Office (formerly the Dominion Office) there and, in appropriate cases, the Foreign Office. Since the Balfour Report has been given effect by the Statute of Westminster the High Commissioner of the United Kingdom in the Union has ceased to be identical with the Governor-General. The latter is appointed by the King on the advice of the Union Government, while the former is, in effect, the British Ambassador to the Union. India, Canada and Australia have followed the example of the United Kingdom by appointing High Commissioners in the Union but reciprocal appointments have so far only been made in Canada and in Australia.

1948

In December 1948, the Union Government announced that it had decided, in pursuance of recommendations which had been adopted at the previous Commonwealth Conference in London, to accord High Commissioners the same precedence as Ambassadors in the Union.

¹ There was an historic reason why the name "High Commissioner" was preferred even in modern times. Until the passing of the Statute of Westminster, the Crown was held to be indivisible, so that the King could not appoint a representative to himself.

²
emb So far South Africa has appointed ambassadors to Washington and to Paris.¹ Prior to their appointment, however, Mr. Charles te Water became Ambassador-at-large, a post with a precedent in the old South African Republic.

emb An ambassador originally represented the personal dignity of the sovereign or head of his state. He was and is entitled to personal access to the sovereign or head of the state to which he is accredited. Formerly there was also a distinction between an ambassador ordinary and extraordinary, the latter being sent on special missions. Today the latter expression is almost universally used and is also applied to the lower ranks of diplomats.

ins. Ministers plenipotentiary are in charge of legations (as distinct from the embassy of an ambassador). Originally they did not represent their sovereign or head of state but their Government.¹ This difference has disappeared and it is now merely a lower rank. Slightly inferior in status again is the Minister Resident. Nowadays the titles of Minister and Envoy are virtually synonymous but because of disputes in bygone times it has become usual to appoint representatives under the joint designation of "Envoy Extraordinary and Minister Plenipotentiary".

rank A Chargé d'Affaires (en titre) is accredited by ^{MFA} the Minister of Foreign Affairs of his own country to the equivalent minister of the other country. These differences of status are most clearly seen in the degree of ceremonial attending the reception of different ranks of diplomats, an ambassador, for instance, being entitled to a larger escort and a larger salute of guns.

In South Africa some consuls-general exercise a certain amount of diplomatic power. This is left over from the time when our country enjoyed a lower diplomatic status than it does at present. Although consular officials are not regarded as members of the diplomatic service, they often enjoy courtesy ^{privs} privileges. As far as Britain is concerned the two services are amalgamated and recruiting is interchangeable. As recently as 1908 Britain was only represented in countries like Bulgaria by a "Commissioner and Consul-General". Among foreign powers so represented in the Union are China, Czechoslovakia, Brazil, Egypt, Spain and, as already mentioned, Soviet Russia. There is no reason why a diplomatic representative should not be accredited to more than one country. Dr. W. J. Leyds showed this in the case of the Transvaal Republic and we ourselves have a Minister in Rome with several accreditations and likewise the Minister in Stockholm.

¹ In February 1949 it was announced that Mr. North Winship, the Minister Plenipotentiary for the United States of America in Pretoria had been appointed Ambassador, the post to be accredited to the head of the South African state.

After the war South Africa had, for some time, a new diplomatic relation with Italy. The Union had a "diplomatic representative" in Rome while the Italians had a Government Representative" in Pretoria. Once peace was signed Ministers were exchanged in the normal fashion. As a matter of convenience small powers like Luxembourg are represented by the consulates of larger states. (Belgium in this instance and Switzerland in the case of Lichtenstein.)

Of fundamental importance in the operation of the foreign relations of South Africa, or any other state, is the preservation of the inviolability of legations. A Chinese consular official, himself not enjoying diplomatic immunity had been arrested by mistake, and this emphasised the awkward situations that could arise. The Diplomatic Immunities Act was passed in 1932, making it a serious criminal offence for any person to take legal action against any member of a diplomatic staff. To-day it is customary to forward to the Department of External Affairs lists of personnel on the basis of which it publishes in the "Union Government Gazette" the names of protected individuals, including wives, children and household staff. No policemen or office of the court is allowed access to diplomatic property in his official capacity.

When a new Minister Plenipotentiary arrives in the Union the Department of External Affairs arranges for him to present his "letters of credence" to the Governor-General as head of the State. After the document has been handed over, the Minister and the Governor-General (who is attended by the Union Minister of Foreign Affairs) make short ceremonial speeches expressing pleasure at the meeting and goodwill towards each other's nations.

Consuls undergo no such ritual but act under a Commission from their own Government while Exequatur; i.e. authority from the receiving Government, must generally be confirmed by the King on the advice of his South African Ministers.¹ It has sometimes happened that a nominee has proved unwelcome for political or other reasons, in which case he is called "persona non grata" but no such case has been recorded in the Union. For a consul appointed to the Union the Exequatur is signed at the top by the King (who always signs at the head of a document) and after saying who the representative is and by whom appointed, goes on:

"We have approved of this appointment according to the Commission beforementioned, Our Will and Pleasure are, and We hereby require that you do receive. . . . in the exercise

¹ Where the Commission is issued by the Head of a Foreign State the Union Government will approach the King with a request to issue his Exequatur. Where it is issued by a Minister of Foreign Affairs the Union Governor-General grants recognition.

of his office, giving and allowing to him all the Privileges, Immunities and Advantages thereunto belonging.

"Given at Our Court of St. James the . . . day of . . . in the . . . year of Our Reign.

"By His Majesty's Command" (Signature of the Union Minister of External Affairs).

Correspondence and allied matters dealing with diplomatic subjects must be handled by the Department of External Affairs, likewise the arrangements for attendance at conferences and the signing of treaties. At conferences, the seating and precedence are usually arranged by alphabetic sequence in the French language. Under the League of Nations, South Africa—Afrique du Sud—was usually near the head of the list, but under the United Nations the name Union d'Afrique du Sud is preferred.

Agreements in the international field are of various kinds. In a semi-official statement issued soon after the founding of the Department it was pointed out that: "As regards their form a distinction must be made between treaties proper, that is between agreements between heads of states, and agreements in a different form." At the 1926 Imperial Conference the Union and other Dominions resolved to use treaties "where the arrangement was not intended to regulate an agreement between members of the Commonwealth inter se." This system has not been followed in practice. For the conclusion of a treaty the King issues full powers ^{→ Treaty} to the Union delegates on the advice of his South African ^{Minis} Ministers. In the case of agreements between governments (including those with other members of the Commonwealth) full powers are issued by the Governor-General-in-Council. Treaties are ratified by His Majesty but agreements between Governments are ratified by the Governor-General-in-Council. The only exceptions where Parliamentary approval is also required by law concern Tariff Agreements. As a matter of tradition, however, Peace Treaties are similarly approved. A standing arrangement exists by which all members of the Commonwealth have undertaken to notify each other of treaties entered into, which are likely to be of mutual interest.

An example of the wording of the preamble to a treaty has already been given in connection with the documents signed at Versailles in 1919. In theory treaties should only deal with matters of high policy, unlike conventions, but in practice this distinction is often shadowy since treaties can deal with humdrum commercial matters, and conventions may establish alliances and cover military matters. The main difference is that a convention is often between a large number of powers and is slightly less formal. Here is a specimen of the simpler kind, namely the Mozambique Convention:

"Convention between the Government of the Union of South Africa and the Government of the Portuguese Republic.

eg. of Convention

Preamble "The Government of the Union of South Africa (hereinafter called "the Union Government") and the Government of the Portuguese Republic (hereinafter called "the Portuguese Government") being desirous of regulating the entry of native labourers from the colony of Mozambique into the Province of the Transvaal, Railways and other Commercial Intercourse between the Union of South Africa (hereinafter called "the Union") and the Colony of Mozambique (hereinafter called "Mozambique") have resolved to enter into a Convention for the purpose and have appointed as their representatives for that end, that is to say:

(There follows a list of the three representatives on each side and their respective functions);

"Who, having communicated their respective Powers, found in good and due have agreed as follows:

(follows text)

En français "In witness whereof the representatives of the respective Governments have signed the present Convention and have attached thereto their seals.

Pleasants "Done at Pretoria in triplicate in English, Afrikaans and Portuguese texts on the eleventh day of September, 1928."
(Signatures)

Another type of agreement—the multilateral—is illustrated by the following:

eg. of multilateral agreement
Parties Universal Postal Convention concluded between Afghanistan, the Union of South Africa, Albania, Germany, the United States of America, . . . etc., etc., etc., . . . The Kingdom of Yugoslavia,

Pleasants → "The undersigned plenipotentiaries of the Governments of the countries abovementioned, being assembled in Congress at Buenos Aires by virtue of Article 13 of the Universal Postal Convention, concluded at Cairo on March 20, 1934, have by common consent and subject to ratification, revised the said Convention to read as follows:

(text)

en français "In faith of which the Plenipotentiaries of the Governments of the countries above enumerated have signed the present Convention in one copy, which will be filed in the archives of the Government of the Argentine Republic and a copy of which will be delivered to each Party.

date "Done at Buenos Aires, May 23, 1939

signature "For the Union of South Africa
(signed) J. N. Redelinghuys,
H. C. Wain etc.,"

eg. One of the most important of all recent international agreements to which the Union is a party, that commonly known as "Bretton Woods" is extraordinary simple in its wording:

"Articles of Agreement—International Monetary Fund.

"The Governments on whose behalf the present Agreement is signed agree as follows:

(text)

"Done at Washington, in a single copy, which shall remain deposited in the archives of the Government of the United States of America, which shall transmit certified copies to all Governments whose membership is in accordance with Article 1, Section 2."

(Signatures)

A treaty should contain a preamble, setting forth the names of the parties, the reasons for its signature, the names and titles of the plenipotentiaries, and the fact that they have produced their authority and that both sides are satisfied therewith. It continues with the text of the actual agreement, including if necessary provision for ratification by the home authorities of the signatories and the clause "In witness the respective plenipotentiaries have affixed their signatures and seals." At the bottom of every treaty appears the place of signature and date.

T.
N.Ch.
Law Conferences usually conclude with the signing of a so-called "Final Instrument" or "Acte Final", setting out what has been achieved. The United Nations Charter is a form of Convention, signed at San Francisco in 1945, and is of this nature. It commences:

"We the Peoples of the United Nations, determined

"to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

"to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in equal rights for men and women of nations large and small, and

"to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained and to promote social progress and better standards of life in larger freedom;
"AND FOR THESE ENDS

"to practice tolerance and live together in peace with one another as good neighbours, and

"to unite our strength to maintain international peace and security, and "to ensure, by the acceptance of principles and the institution of methods that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

"HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

"Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers, found to be in good and due

form, have agreed to the present Charter of the United Nations, and do hereby establish an international organisation to be known as the United Nations

"Signed on behalf of

"The Union of South Africa etc.,"

It is worth remembering that this epoch-making preamble was personally drafted by South Africa's principal delegate, Field Marshal Smuts.

Statements of policy are frequently set out in Declarations, under which heading one may place the Atlantic Charter, which is very informal by diplomatic standards. There are a considerable number of finer variants, such as Arrangements, Protocols, Exchanges of Notes, in increasing degrees of informality.

South African Department of External Affairs at Work

BIT by bit the South African Department of External Affairs is learning the nature of the game of international statesmanship, the use of the technique of diplomacy evolved by older nations and successfully applied in the course of many centuries.

Twenty-two years have now gone by since the Union founded its own Department of External Affairs. Sufficient time has, therefore, elapsed to warrant a stock-taking. South Africa has already been able to achieve a certain tradition of her own, though the influence of British diplomatic precedent is obvious in all aspects of South Africa's handling of foreign relations.

A most gratifying feature of the operation of the Department is the consistent effort which has been made to prevent it from becoming hide-bound and over-organised. This is shown by the custom of holding informal conferences between the heads of Divisions and their senior officials, in inter-section and inter-divisional meetings, and also conferences with other Departments interested in matters handled by the Department of External Affairs, at all which meetings no hard and fast routine is adopted.

Although it is customary for the Union's Prime Minister to hold the office of Minister of External Affairs, his functions as such are quite separate as is most of the staff. Under him the permanent Head of the Department is the Secretary, assisted by the Under-Secretary who devotes most of his time to administrative matters.

All business is dealt with by one of three "Divisions" which, in their turn, are subdivided into sections. The most important to the world at large is the Political and Diplomatic Division,⁴ *Sub* which has four sections. The Political Intelligence Section prepares information for South African Missions abroad and receives and collates incoming data. Its work is supplemented by *and*

- Polit + Dipl. D.
- a. Polit Intell S. (29)
 - b. Polit Gen S
 - c. Protocol.
 - d. Coding.

that of the ^{Bh} "Political General Section" which analyses information received and makes recommendations for submission to the Secretary for External Affairs and eventually the Minister. The "Protocol Section" attends to the ceremonial side of diplomacy and handles the formalities connected with the sending and reception of missions. Part of its work is the drafting of all the stately documents, including "letters of credence" and consular exequaturs. The need for secrecy in the Department is safeguarded by the "Coding Section".

2. The "Economic and General Division" is really a specialised offshoot of its political counterpart. The Section devoted to
- a. Economics deals with all the specialised international economic agencies with which the Union comes into contact: UNRRA, the International Refugee Organisation, the International Food and Agriculture Organisation, the Bretton Woods Bank, the International Civil Aviation Organisation and many others.
 - b. The "International Trade Section" is mainly concerned with trade and commercial agreements between the nations, for instance those arising from discussion at Geneva and Havana.
 - c. Finally the "General Affairs Section" handles all matters not accounted for in the terms of reference of the other divisions and sections.

The very name of the "Administrative Division" explains its functions. It is divided into the "Registry and Records Section", "Library Section" and "Staff and Accounts Section".

There is a specifically South African aspect of the work of the Department which deserves mention. This is bilingualism. No other country in the world has quite the same problem nor has any other solved it in the same way. All correspondence written in the Department is written in English or Afrikaans in alternate months. Once a correspondence has been started it is continued in the original language. Correspondence with the public is carried on in whatever language has been used for the original enquiry. Missions outside the Union are free to use whichever language they prefer and the importance of English in international diplomacy often makes it desirable to transmit papers to Pretoria in that language. Where information received by missions abroad is in a foreign language it is transmitted to the Department together with copies in the original language from which additional translations for checking purposes are made when the matter is of great importance. Accounts are kept in English and Afrikaans in alternate years.

Where a policy has been laid down, matters arising under it may be dealt with and finalised by heads of sections or divisions, depending on the importance of the matter. Where a formulation of policy is required heads of sections initiate the matter, memoranda expressing their views are circulated to other sections and divisions. Where necessary this procedure is supplemented by

meetings between senior officials. It is emphasized that no hard and fast routine is laid down and other Departments may also be consulted. By the above process of consultation a complete picture, together with proposals, is prepared for submission to the Minister. There are some important Departmental Standing Committees.

Departmental Standing Committees

1. One of these is the External Trade Relations Committee, comprising the Secretary for External Affairs, the Secretary for Commerce and Industries, the Secretary for Agriculture, the Secretary for Mines, the Commissioner for Customs and Excise and the Secretary for Finance. The Committee has the power to co-opt the head of any other state Department should it consider this desirable. The Chief of the Economic and General Division usually acts as the secretary of this Committee. The External Trade Relations Committee holds preliminary discussions on all matters concerning international trade for the consideration of the Cabinet. A similar body dealing solely with publicity matters is the Inter-departmental Committee on Policy which includes the Secretary for External Affairs and the Secretary for the Interior.
- 2.

*Applied
to policies*

Wherever it is considered necessary the Law Advisers are consulted. Once a policy has been fixed a considerable amount of liberty is allowed to the responsible officials in applying it and decentralization is encouraged where possible.

No one section of the Department deals exclusively with the work of the United Nations. The Political Section is responsible for the distribution of U.N. documents to the other sections concerned. This section studies and analyses the political aspects of all documents but each section is responsible for studying documents within its own scope of work and for advising or consulting other interested departments.

There is no hard and fast rule with regard for directives to missions abroad and to delegations to conferences and U.N. meetings. The latter are prepared by the Political Division, others by the Political or Economic and General Division, depending on the nature of the conference or the matter of the directive to missions, but in all cases the process of consultation between Divisions within the Department and with other interested Departments is the process by which the responsible Division prepares the directives. Diplomatic documents are drafted in the Department and must be signed by the Minister or the Secretary, as circumstances demand. Those most commonly addressed to foreign Governments are notes while "aides-memoire" are prepared by the Department for the guidance of representatives in their verbal negotiations with foreign officials, or mission abroad may prepare them on the spot on the basis of relevant directives and information supplied by the Department.

Filing has been built up on a carefully worked out system of serials and, after 10 years, records are closed off and sent to the departmental (not the General) archives.

1950
000,000 South Africa has, to-day, a foreign service of considerable extent as is shown by the fact that vote provision for the Department for the year 1947-48 is £751,000. This figure covers all anticipated expenses of the Department including a contribution of £110,000 to the United Nations. Contributions to specialised agencies such as the I.L.O., F.A.O., UNESCO, etc., are payable by the Government Departments concerned direct.

The authorised establishment will be found at the end of the text.

"Hitherto", says an official statement, "it has been the custom to appoint all diplomatic and consular officials from the ranks of the Department, i.e., all appointees are members of the Civil Service, with the exception of Envoys Extraordinary and Ministers Plenipotentiary who may, but need not, be outsiders. In order to qualify for the diplomatic and consular services of the Union, which are not separated and the officials of which are interchangeable, candidates must possess certain prescribed qualifications, and serve a probationary period as cadet diplomats. During this time certain departmental qualifications have to be attained, whereupon successful candidates are appointed, either as attachés or vice-consuls, which posts are equal in ranking."

Following the American tradition rather than the British, the South African Government has so far elected professional men or politicians as its overseas ministers. The indications are, however, that the career diplomat will in due course make his appearance from the ranks of the cadets. The qualifications required of the latter are high. They must be qualified for admission to the Civil Service, possess a University Degree, preferably in economics or law, be thoroughly conversant with English and Afrikaans, and have a working knowledge of French.

Cadets with an L.I.B. degree start with a salary of £300, plus certain cost-of-living allowances depending on where they are stationed. To obtain promotion a cadet must provide evidence of having qualified in Public International Law, Constitutional Law, Elementary Principles of Private Law, Economics, Diplomacy, French, Commerce, Modern History.

OFFICE OF THE PRIME MINISTER AND DEPARTMENT OF EXTERNAL AFFAIRS

I. HEAD OFFICE

PRIME MINISTER AND MINISTER OF EXTERNAL AFFAIRS

1 Secretary
1 Personal Assistant
1 Under-Secretary

POLITICAL AND PROTOCOL DIVISION

1 Counsellor
Coding Section
1 Clerical Assistant, Grade I
6 Assistants

Relief Section
2 Cadets

Political Section
1 First Secretary
1 Second Secretary
3 Third Secretaries
2 Cadets

Protocol Section
1 Second Secretary
(Chef de Protocole)
2 Third Secretaries
1 Cadet

ECONOMIC AND GENERAL DIVISION

1 Counsellor
1 First Secretary
International Trade Section
1 Second Secretary
2 Third Secretaries
1 Cadet

General Section
1 Second Secretary
2 Third Secretaries
3 Cadets

Economic Section
1 Second Secretary
2 Third Secretaries
1 Cadet

ADMINISTRATIVE DIVISION AND OFFICE OF THE PRIME MINISTER

1 Chief Clerk, Grade I

Accounts Section
1 Assistant Accountant Grade I
12 Assistants

Registry
1 Special Grade Woman Clerk
8 Assistants

Staff Section
1 Senior Clerk
6 Assistants

Office of the Prime Minister
Parliamentary, Reconstruction and
Executive Section
Chief Clerk, Grade II.
3 Assistants
Private Secretariat
1 Private Secretary
6 Assistants

Library
1 Librarian

Typists
1 Supervising Shorthand Typist
9 Assistants

Messengers
1 Head Messenger
1 Usher Messenger
6 Messengers

II. EMBASSIES

Washington

1 Ambassador Extraordinary and Plenipotentiary
1 Counsellor
1 First Secretary
* 1 Agricultural attaché
‡ 1 Military Attaché
2 Second Secretaries
† 1 Commercial Secretary
2 Third Secretaries
4 Cadets
3 Assistants
8 Locally recruited Assistants

Paris

§ 1 Ambassador Extraordinary and Plenipotentiary
1 First Secretary
1 Second Secretary
† 1 Commercial Secretary
2 Third Secretaries
1 Assistant
6 Locally recruited Assistants

* Department of Agriculture.
† Department of Commerce and Industries
‡ Department of Defence
§ With effect from the date on which Mr. H. T. Andrews presents his credentials

III. HIGH COMMISSION OFFICES

London

1 High Commissioner
‡ 1 Military Adviser to High Commissioner
† 1 Senior Trade Commissioner
1 Political Secretary
2 Second Secretaries
3 Third Secretaries
4 Cadets
2 Assistants
2 Locally recruited Assistants

Ottawa

1 High Commissioner
1 Second Secretary
1 Third Secretary
1 Assistant
4 Locally recruited Assistants

Canberra

1 High Commissioner
1 Second Secretary
1 Third Secretary
1 Assistant
2 Locally recruited Assistants

‡ Department of Defence
* Department of Commerce and Industries

IV. LEGATIONS

Rome

1 Envoy Extraordinary and
Minister Plenipotentiary
1 First Secretary
‡ 1 Military Attaché
1 Second Secretary
† 1 Commercial Secretary
† 1 Commercial Assistant
2 Third Secretaries
1 Cadet
1 Assistant
7 Locally recruited Assistants

The Hague

1 Envoy Extraordinary and
Minister Plenipotentiary
1 First Secretary
† 1 Commercial Secretary
2 Third Secretaries
2 Cadets
1 Assistant
8 Locally recruited Assistants

Stockholm

1 Envoy Extraordinary and
Minister Plenipotentiary
1 Second Secretary
† 1 Commercial Secretary
1 Third Secretary
‡ 1 Military and Air Attaché
1 Cadet
1 Assistant
5 Locally recruited Assistants

Buenos Aires

1 Envoy Extraordinary and
Minister Plenipotentiary
1 Second Secretary
† 1 Commercial Secretary
1 Third Secretary
1 Assistant
4 Locally recruited Assistants

Lisbon

1 Envoy Extraordinary and Minister
Plenipotentiary
1 Second Secretary
1 Third Secretary
1 Assistant
3 Locally recruited Assistants

Río de Janeiro

1 Envoy Extraordinary and Minister
Plenipotentiary
1 Second Secretary
1 Third Secretary
1 Assistant
3 Locally recruited Assistants

Cairo

1 Second Secretary (Chargé d'Affaires)
1 Third Secretary
† 1 Commercial Secretary
‡ 1 Military Attaché
1 Assistant
9 Locally recruited Assistants

Brussels

1 First Secretary (Chargé d'Affaires)
1 Second Secretary
† 1 Commercial Secretary
1 Third Secretary
1 Assistant
5 Locally recruited Assistants

Santiago

1 Second Secretary (Chargé d'Affaires)
1 Third Secretary
3 Locally recruited Assistants

Athens

1 First Secretary (Chargé d'Affaires)
1 Third Secretary
‡ 1 Military Attaché
1 Cadet
1 Assistant
4 Locally recruited Assistants
† Department of Commerce and Industries
‡ Department of Defence

United Nations

1 Deputy Permanent Representative
1 Second Secretary
1 Third Secretary
5 Locally recruited Assistants

V. CONSULATES-GENERAL

New York

1 Consul-General
2 Vice-Consuls
† 1 Vice-Consul (Trade)
1 Cadet
10 Locally recruited Assistants

Leopoldville

1 Consul-General
1 Vice-Consul
3 Locally recruited Assistants

Lourenco Marques

1 Consul-General
1 Vice-Consul
1 Cadet
1 Assistant
3 Locally recruited Assistants

Antananarivo

1 Consul-General
1 Vice-Consul
1 Assistant
5 Locally recruited Assistants

VI. CONSULATES

Elizabethville

1 Consul
1 Vice-Consul
1 Cadet
† 1 Trade Commissioner
3 Locally recruited Assistants

Frankfurt-am-Main

1 Consul
† 1 Commercial Secretary
5 Locally recruited Assistants

† Department of Commerce and Industries

VII. COMMISSION OFFICES

Nairobi

1 Commissioner
1 Third Secretary
† 1 Commercial Secretary
1 Cadet
1 Assistant
5 Locally recruited Assistants
† Department of Commerce and Industries

VIII. MILITARY MISSIONS

Berlin

1 Political and Economic Adviser

Protocol

THE Order of Precedence of the Diplomatic Corps is as follows:

- (1) *The Doyen of the Diplomatic Corps who is the senior foreign diplomatic representative determined by date of presentation of Credentials;*
- (2) *Ambassadors and High Commissioners;*
- (3) *Envoys Extraordinary and Ministers Plenipotentiary;*
- (4) *Chargés d' Affaires en titre;*
- (5) *Chargés d'Affaires ad interim.*

Precedence in categories (2), (3) and (4) depends on date of presentation of Credentials.

Precedence in category (5) depends on date of assumption of duty.
