

LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

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OF THE
THIRTY-SIXTH SESSION

Held at Geneva from June 8th to 29th,
1939

including the
REPORT OF THE COMMISSION TO THE COUNCIL

EIGHTH MEETING

Held at Geneva on June 13th, 1939, at 10.30 a.m.

**Palestine and Trans-Jordan: Examination of the Annual
Report for 1938.**

Mr. S. Moody, O.B.E., Deputy Chief Secretary to the Government of Palestine, Mr. A. S. Kirkbride, O.B.E., M.C., British Resident in Trans-Jordan, and Mr. H. F. Downie, C.M.G., O.B.E., Colonial Office, accredited representatives of the mandatory Power, came to the table of the Commission.

WELCOME TO THE ACCREDITED REPRESENTATIVES

The CHAIRMAN, on behalf of the Commission, welcomed the accredited representatives, with all of whom the Commission had had the pleasure and the benefit of collaborating on previous occasions.

He congratulated Mr. Kirkbride on the promotion he had

received since his last appearance in Geneva and which testified to the confidence reposed in him by his Government.

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE

Mr. MOODY made the following statement:

Mr. Chairman, the accredited representatives very much appreciate your kind remarks; we shall do our utmost to assist the Commission by giving it as fully and frankly as possible the facts of which we are aware.

The Commission will realise, after reading the report, that, during 1938, measures to cope with the continued disorder and unrest formed the principal preoccupation of the Palestine Administration, and that this state of affairs not only made the execution of constructive work all but impossible but also led to a general curtailment of the public services. In October 1938, the position in regard to public security became so grave that the duty of maintaining order was delegated by the High Commissioner to the General Officer Commanding; after this delegation of powers, the District Administrative Staff acted in an advisory capacity to the military commanders in matters relating to public security, and the Palestine Police came under the orders of the General Officer Commanding. This description of the position in Palestine in 1938 applies generally to the whole of that year.

I will now give the Commission a brief summary of events from the end of the period covered by the report to the present time.

During the first months of 1939, interest among all three communities in Palestine-- British, Arab and Jewish--was concentrated on the departure for London of the Arab and Jewish delegations to participate in the conferences with the United Kingdom Government which took place in St. James's Palace during the months of February and March. Meanwhile, in Palestine, military and police action was energetically pursued with the object of re-establishing public security and dispersing the armed bands which had been particularly active during the last few months of 1938. By the end of April 1939, these bands had been broken up and many of the leaders had fled the country or had been

killed.

In April and May, the question of illegal Jewish immigration into Palestine assumed considerable importance, and after the arrest at sea of certain vessels carrying Jewish refugees with the object of clandestinely landing them on the Palestine coast, the Government enacted special legislation which provided that the number of immigrants illegally landed would, in future, be deducted from the official quota authorised for Jewish immigration. Special powers were also taken to watch the coast, to inflict heavy penalties on the owners of ships engaged in the trade, and to seize the ships themselves.

On May 18th, 1939, the White Paper 1/ on the Palestine policy of His Majesty's Government was published simultaneously in London and in Jerusalem. Following its publication, the more extreme Arab elements made an attempt to revive the activity of armed bands in the rural areas and of terrorism in the towns, and on three occasions in the Samaria and Galilee districts troops engaged and dispersed such formations.

An unsigned statement purporting to be made by the Arab Higher Committee was issued rejecting the policy outlined in the White Paper, but it is too early to make any definite statement on the feeling of the Arabs of Palestine in this regard.

The Jewish reaction was more immediate. There were large Jewish demonstrations in Jerusalem, where serious rioting occurred on May 9th and 20th, 1939; in Haifa, the demonstrations passed off without incident, but rioting also occurred at Tel-Aviv. At the same time, leading Jewish political bodies published manifestos urging the Jews in Palestine not to co-operate with the Government in the implementing of the new policy. In the last days of May and the first days of June, certain elements among the Jewish community reacted more violently and there was a series of bomb outrages in Jerusalem.

To meet this campaign of violence, military and police precautions were intensified in the towns and a severe warning was addressed by the Government to the editors of the Hebrew Press, including the Palestine Post, which is published in English, against the publication of any matter which would tend to incite to violence or encourage

breaches of the public peace.

I turn now to Trans-Jordan.

During 1939, conditions in Trans-Jordan have been generally satisfactory in spite of a number of organised attempts to disturb public security in that territory. Several armed bands entered Trans-Jordan and incited the villagers in the Ajlun district to rebel. They met, however, with practically no response and were eventually dispersed after suffering heavy losses in engagements with the local armed forces. The presence in London of the chief Minister of Trans-Jordan during the recent conferences on Palestine afforded an opportunity for discussing the working of the Agreement which at present governs the relations between His Majesty's Government and the Government of the mandated territory of Trans-Jordan. Certain suggestions were put forward by His Highness the Amir of Trans-Jordan which, he considered, would conduce to increased cordiality between the two Governments, and His Majesty's Government, which has greatly appreciated the friendship and wisdom shown by His Highness and his people in these difficult times, was glad to find itself able to meet His Highness' suggestions in a number of matters which His Majesty's Government believed would contribute effectively to the further progress of Trans-Jordan.

His Majesty's Government agreed in principle to the formation, in the place of the present Executive Council of Trans-Jordan, of a Council of Ministers or Cabinet, each member of which will be in charge of a department and will be responsible to the Amir. Further, His Majesty's Government consented to the deletion from the Agreement of the existing restriction upon His Highness' powers of raising and maintaining military forces in Trans-Jordan, and also to the appointment by His Highness of consular representatives in certain neighbouring Arab countries. In a number of other matters also, His Majesty's Government accepted the suggestions of His Highness the Amir, the general effect of which will be to increase the discretionary authority of His Highness' Government and its officials.

The CHAIRMAN thanked the accredited representative for his statement.

Palestine: Jewish National Home: Relations between Official Zionist Bodies and the Revisionist Organisation: Jewish Immigration: Shipping and Industrial Undertakings: Relations between Arabs and Jews: Disturbances: Central Defence Committee (Damascus): Arms and Ammunition: Frontier Control.

M. RAPPARD noticed from page 59, paragraph 3 of the report, that during 1938 "27,280 dunums of land were purchased by Jews from non-Jews". Who were the non-Jews mentioned?

Mr. MOODY replied that in 1938 most of the purchases in question concerned land on the northern frontier of Palestine, the property of Lebanese and Syrian landlords who did not reside in Palestine.

Mlle. DANNEVIG noted that, according to paragraph 2 on the same page of the report, 17,988 Jews had acquired Palestinian citizenship by naturalisation in 1938. She asked whether the Jews who had obtained Palestinian citizenship constituted a large proportion of the Jewish population in Palestine.

Mr. MOODY could not say off-hand, but believed they were in the majority.

Count DE PENHA GARCIA said it was common knowledge that the Jewish Agency, which, under the mandate, was the officially recognised representative of the Jewish population, found its claims to such representation contested by the New Zionist Organisation. He observed also from paragraph 50 (page 33 of the report) that the "strained relations between the official Zionist bodies and the Revisionist (New Zionist) Organisation showed no improvement during the year". Had those relations improved since?

Mr. MOODY replied in the negative. The relations between the Jewish Agency and the Revisionist Organisation had become even more strained since the issue of the White Paper to which he had already referred.

Count DE PENHA GARCIA suggested that the reference in paragraph 50 and the accredited representative's reply did not seem consistent with the statement at the end of paragraph 48 (page 32 of the report) about the closer union of Zionist parties on the

question of policy in Palestine.

Mr. MOODY pointed out that the reference in paragraph 48 was to the official Zionist bodies only as distinguished from the Revisionist Organisation.

M. VAN ASBECK asked what Zionist parties were referred to in paragraph 48.

Mr. MOODY had no detailed knowledge of the matter, but knew that there existed an official Zionist party and a number of smaller sections in the Zionist party, some with more and others with less pronounced labour views.

Count DE PENHA GARCIA gathered from the reference in paragraph 49 (page 32 of the report) that the ill-treatment of their co-religionists in Germany had stimulated Palestine Jewry to redouble its efforts to get these German Jews admitted into Palestine. Had those efforts been successful?

Mr. MOODY confirmed that the campaign on behalf of German Jews had greatly increased the proportion of these Jews admitted into Palestine. But the total volume of such immigration was, of course, limited by the restrictions imposed by the Palestine authorities on immigration generally.

Lord HANKEY pointed out that the reference in paragraph 6 on page 60 of the report showed that active efforts had been made to promote the settlement of German Jews in Palestine.

Count DE PENHA GARCIA inferred that, in spite of their efforts and contrary to their expectations, Palestine Jews had not been successful in bringing in large numbers of their persecuted co-religionists.

Mr. MOODY pointed out that no very great expectations could have been entertained in view of the restrictions imposed as a result of the Royal Commission's report.

Mlle. DANNEVIG believed that many Jews in Palestine had to contribute to the support of their destitute co-religionists in Germany. Would the transfer of funds for that purpose affect the economy of the territory to such an extent that it would be preferable, from the point of view

of the authorities, to permit the entry of the persons thus supported?

Mr. MOODY understood that the position was as stated by Mlle. Dannevig, but could express no opinion on the economic aspect of the problem. The basic fact to be borne in mind was that immigration was absolutely restricted.

Mlle. DANNEVIG raised the question of the ban imposed on the entry into Palestine of some 10,000 German Jewish children.

Mr. MOODY pointed out that the problem had arisen just before the London discussions opened in February and March last. In the circumstances, His Majesty's Government had deemed it wise to avoid any prejudice of the discussions which specifically included the crucial problem of immigration, by permitting the entry of the children in question at that stage.

Lord HANKEY noted from paragraph 2 (page 59) that only 2,573 out of 12,868 Jews registered as immigrants in 1938 were working men and women. Was that rather low percentage of labourer immigrants normal?

Mr. MOODY said that the figure in question was abnormally low--probably due to unemployment. Usually the proportion of working men and women registered as immigrants was higher.

Count DE PENHA GARCIA observed from paragraph 55 (page 33 of the report) that the idea of the Jewish National Home was now being expanded to include shipping activities. Were the new shipping companies being operated on sound lines and were they likely to be successful?

Mr. MOODY replied that the shipping developments reflected one phase of the Jewish National Home idea and, he believed, were soundly based on the economic requirements of Palestine Jewry.

Count DE PENHA GARCIA asked what flag was flown by the vessels owned by the new Jewish shipping companies.

Mr. MOODY replied that the vessels in question flew the Red Ensign defaced with the name "Palestine" in a circle.

The CHAIRMAN asked whether there was a regular registration system for vessels flying the Palestine flag.

Mr. MOODY replied in the affirmative.

M. GIRAUD drew attention to the figures of the tonnage loaded and unloaded at the ports of Haifa, Jaffa and Tel-Aviv as given in the table in paragraph 5 on page 234 of the report. The striking feature of those figures was that, whereas the tonnage discharged and loaded at Haifa and Jaffa had decreased, there had been a very large increase in the tonnage handled at Tel-Aviv. Was the latter port sufficiently well equipped to deal with such a rapid increase in the traffic ?

Mr. MOODY had no doubt that the facilities at Tel-Aviv could be increased, but did not at present know to what extent.

Lord HANKEY asked whether the new Jewish industrial undertakings referred to in paragraph 12 (page 62 of the report) were able to hold their own in the present difficult period.

Mr. MOODY said that most of the new enterprises had proved successful but, as would be seen from another section of the report, bankruptcies and liquidations had increased in 1938 (paragraph 65, page 36 of the report).

M. VAN ASBECK noted a reference in paragraph 12 (page 62) to certain raw materials which had been exempted from import duty. Were those exemptions and materials the same as those referred to in paragraph 5 (page 66)?

Mr. MOODY pointed out that the exemptions referred to on page 62 were granted on articles used by Jewish firms. Those for which the Jewish Agency had applied (page 66, paragraph 5) had not in every case been granted. Full particulars of the matter would be found in the comments of the mandatory Power on the annual report of the Jewish Agency, which would be transmitted to the Mandates Commission.

M. VAN ASBECK noted a reference on page 61, paragraph 7, to new Jewish settlements established in Galilee. In that connection, the Commission had heard in 1938 of the rather cordial relations which sometimes existed between Jews and

Arabs. Did the Arab population welcome the establishment of these particular settlements? Was it true, as had been stated in the recent House of Commons debate, that they had given active help to the Jewish settlers?

Mr. MOODY recollected the statements made in the House of Commons and House of Lords debates and had asked the District Commissioner concerned for corroboration. The latter had stated that, though no hostility was shown to the new settlers, they were not received by the local Arabs with open arms.

Mr. KIRKBRIDE added the explanation that the Jewish settlements established in Galilee in 1938 were situated on land already owned by Jews but hitherto unoccupied. The reason why no acts of open hostility to the new settlers occurred was that precautions had been taken both by the Jews and the authorities to ensure peaceful occupation.

Mlle. DANNEVIG asked whether it was not true, in general, that greater friendliness and protection were shown to the Jews by the Arab *fellahin* than by the *effendi* class.

Mr. MOODY agreed that Arabs often helped their Jewish neighbours and vice versa, but deprecated the drawing of broad political conclusions from such facts. The relations of Arabs and Jews in Palestine had been carefully analysed by the Royal Commission in 1937 and more recently by the Partition Commission. Their broad conclusions unfortunately remained true.

Mr. KIRKBRIDE pointed out that armed bands were almost entirely recruited from the *fellahin* class.

Mlle. DANNEVIG asked whether the *fellahin* were not often forced to join the rebel bands in order to save their own lives and property.

Mr. KIRKBRIDE thought that few of the *fellahin* who were with the rebels had joined under compulsion.

Lord HANKEY suggested that situations similar to that prevailing in Palestine were not unknown even in Europe, where neighbouring peoples might live in amity for years until some trouble arose which made them mutual enemies. Was that a fair description of the situation?

Mr. MOODY said that the parallel drawn by Lord Hankey was, broadly speaking, correct.

M. RAPPARD commended the painstaking chronological account given in the report of the disturbed situation during 1938. But he was more interested still in what was not expounded in the report. He would be grateful to be informed on such more general topics as the strategy, technical equipment, state of mind, organisation and composition of the Arab rebel bands. Could the accredited representative not give the Commission a fuller explanation of the position in those respects?

Mr. KIRKBRIDE explained that, according to the information in the possession of the authorities, the country was divided up into areas under commanders who, in turn, had under their orders sub-commanders with gangs of twelve to twenty-five men. The co-ordination of activities in an area was usually good, from the rebel point of view, but the co-ordination between one area commander and another was much less perfect. There had been several commanders-in-chief who claimed to be in charge of rebel activities all over Palestine, but each area commander had decided for himself which chief he would obey. Over and above the field organisation in Palestine itself thus outlined, there was a higher organisation, the Committee for the Defence of Palestine, which had its headquarters in Damascus and from which the various leaders derived their authority.

In 1937, the majority of the members of the armed bands were Arabs from neighbouring countries who had been recruited and despatched to Palestine. In 1938, however, 99% of the rebels were Palestine villagers recruited by the sub-commanders from villages in the area under their command. There might be a few individuals who, as Mlle. Dannevig had suggested, were reluctant recruits, but, as the resistance offered to Government troops showed, most of the members of the bands were believers in their cause.

The position as regards equipment and arms was that large quantities of these must have been accumulated secretly before the troubles began. Since that date, there had also been a traffic in contraband arms over the frontier against

which all possible measures had and were being taken. At the Commission's last session 2/ he had said that most of the arms and ammunition used by the rebels were of war-time date and pattern. That statement was still true, though small quantities of more modern types of ammunition had been found recently.

As they enjoyed such widespread public support, the armed bands could dispense with large financial resources; funds were, however, received from Damascus and contributions were levied locally, mainly from the inhabitants of towns who took a less active part in the fighting.

M. RAPPARD said he had been struck by the references in the accredited representative's replies to a central organisation with headquarters in a neighbouring territory under the mandate of a friendly Power. It was surely a curiously tolerant attitude on the part of the latter to allow a body resident in the territory under mandate to foment sedition across the frontier, particularly when, as would be generally recollected, the same authorities had ten years previously criticised the Palestine Government in connection with the rising in Syria. Had no efforts been made by the Palestine authorities to secure French co-operation?

Mr. KIRKBRIDE had no authority to speak for the mandatory authorities in Syria, but he could confirm that close touch was maintained between the local administrative officers on the Palestine and the Syrian and Lebanese sides of the frontier respectively. Valuable assistance had been given in checking the smuggling of arms and in preventing individuals from crossing to and from Palestine. All available information on current events was mutually communicated.

As regards the immunity enjoyed by the Committee in Damascus, he imagined that it was difficult to bring any overt offence against Syrian laws to its door; it was notoriously an easy matter to foment disorder from across a neighbouring country's frontier. In this case, the interception of messages and supplies was extremely difficult because of the broken nature of the country through which the frontier line ran and the sympathy shown to the rebels by the Lebanese and Syrian populations.

Mr. MOODY confirmed that the French central and local

authorities had done everything possible in a difficult situation to help the Palestine administration.

The CHAIRMAN asked what was the membership of the Central Committee in Damascus.

Mr. KIRKBRIDE said that the Committee was composed of Palestinian and Syrian Arabs.

M. RAPPARD inferred, from the accredited representative's answers, that most of the arms and ammunition used by the Palestine rebels had been in the country since the war. In view, however, of the duration of the uprising, such reserves must surely have been exhausted, particularly in the case of ammunition, which was highly perishable. It would appear from Press reports that the rebels were now using bombs and grenades. Were those war stocks also? The general impression gained was that regular supplies were being received from some source or other.

Mr. KIRKBRIDE reiterated that a large part of the arms and ammunition used had been accumulated before the disturbances began, and that further quantities had since been smuggled over the frontier.

The CHAIRMAN reverted to the question of the impunity enjoyed by the Central Defence Committee in Damascus. It was admitted that no civilised Government could tolerate that shelter should openly be given on its territory to a terrorist organisation operating in any other country. Two years previously a Conference, at which France and the United Kingdom in particular had been represented, had sat in Geneva to discuss and draft an international Convention for the prevention and punishment of terrorism. It was true that no Convention had yet entered into force, but the fact that this Conference had been held showed that the prevention of terrorism was a reciprocal moral obligation upon Governments.

Mlle. DANNEVIG also found it difficult to understand how war stocks of arms and ammunition could still be in use after disturbances of such long duration. Were the arms and ammunition captured from the rebels examined in order to ascertain their exact origin?

Mr. KIRKBRIDE could add nothing to his previous answers which had been to the effect that most of the captured arms

and ammunition dated from the period of the recent war and were of German make.

Lord HANKEY thought the last point important, as it was persistently reported that most of the arms used by the rebels came from Germany and Italy.

Mr. KIRKBRIDE confirmed that practically all the arms were of German origin and dated from the time of the recent war. He recollected having stated in 1938 3/ that some French arms dating from 1924 and 1925 and a small quantity of modern German ammunition had been captured; these, however, were exceptions to the rule. There were, in addition, small numbers of war-time British rifles captured from time to time, together with British rifles which had been lost recently by the police.

Mlle. DANNEVIG still failed to understand how the supply of weapons could be maintained unless, possibly, old types of arms were being smuggled into the country so as to be indistinguishable from local stocks.

M. RAPPARD suggested that most of the rifles might possibly be twenty-five years old as the accredited representative affirmed, but that the ammunition was more likely to be of recent manufacture.

Mr. KIRKBRIDE maintained his point that most of the ammunition was not of recent origin. Some cartridge cases had certainly been recapped and refilled with black powder locally, but did not constitute effective ammunition. The bombs were of a home-made variety, prepared with gelignite and dynamite, which had been smuggled over the frontier notwithstanding the strict supervision maintained by the Syrian, Lebanese and Palestinian authorities.

Count DE PENHA GARCIA could only explain the continuance of acts of terrorism and the extension of the rebel movement by the consistent tendency on the part of the Palestine authorities to underrate the danger of the situation and a reluctance to take any positive action until the last moment. Were there any reasons to justify that optimistic attitude?

Mr. MOODY suggested that it was easy to be wise after the event. Actually, the High Commissioner and the General Officer Commanding had carefully studied the situation from

day to day and had taken every possible precaution to meet emergencies before they arose and in the light of the facts known at the time and to make energetic use of the forces at their disposal. At the present time, there were, in Palestine, two divisions, amounting to some 20,000 men and, as the report showed, considerable success had been achieved. The larger armed bands had been virtually liquidated and disturbances at present were confined mainly to acts of sabotage and sniping by bands and to acts of terrorism in the towns. It was extremely difficult to counter these activities by means of troops.

Count DE PENHA GARCIA understood that hitherto the Arabs had usually been the aggressors and the Jews the parties attacked. In view of the strong Jewish reaction to the White Paper of May 1939, was it to be anticipated that the Jews would now become the aggressors?

Mr. MOODY agreed that, hitherto, the Arabs had been the aggressors. He did not think, however, that there was any serious ground for assuming that that role would pass to the Jews because some of the younger and more irresponsible elements had reacted violently to the new policy announced.

Lord HANKEY assumed that the position in Palestine could be characterised as a rebellion conducted by guerilla methods. Such disturbances had been known before in the history of the British Empire and were not unknown in that of the French and Netherlands colonial dominions. It was equally common for such rebellions to be rather protracted.

When on a visit to Egypt last January he had been interested to find in an inscription on an old stela, dating from B.C.2500, or possibly B.C.3380, that a similar state of affairs prevailed even at that remote date. The inscription in question (which he read) purported to reproduce the instructions left by Khety III to his successor on how to deal with the "Asiatics" whose characteristics as exponents of guerilla warfare were described. Would that be a fair description of the situation at the present time in Palestine?

Mr. MOODY agreed.

Lord HANKEY had noticed numerous references in the report to attacks on the oil pipeline. Had the line, nevertheless, been kept open without serious interruption?

Mr. KIRKBRIDE explained that, if a repair gang was in the vicinity, the damage could be repaired in a period averaging two hours. The attraction to the rebels of such attacks was the spectacular nature of the results when the escaping oil was ignited and produced a blaze which was visible for miles.

Lord HANKEY further enquired whether the barbed wire fence had proved successful in preventing the arrival of reinforcements and the escape of armed bands over the frontier.

Mr. KIRKBRIDE said that the results fully justified the expenditure incurred. Armed bands occasionally managed to penetrate the barrier, but contraband traffic had largely been diverted from the section of the frontier in question.

Lord HANKEY asked whether the fence had been completed during 1939.

Mr. KIRKBRIDE confirmed that the barrier was now continuous from the Sea of Tiberias to the Mediterranean.

TWELFTH MEETING

Held on Thursday, June 15th, 1939, at 3.30 p.m.

Palestine: Policy laid down by the United Kingdom Government in the Document entitled "Palestine--Statement of Policy", of May 1939: Preliminary Statement by His Britannic Majesty's Secretary of State for the Colonies.

The Right Honourable Malcolm MacDonald, M.P., Secretary of State for the Colonies, Sir Grattan Bushe, K.C.M.G., C.B., Legal Adviser to the Secretary of State, and Mr. Downie, accompanied by Mr. Moody and Mr. Kirkbride, came to the table of the Commission.

WELCOME TO MR. MALCOLM MACDONALD AND SIR GRATTAN BUSHE

The CHAIRMAN, on behalf of the Commission, welcomed the Right Hon. Malcolm MacDonald, Secretary of State for the

Colonies, and Sir Grattan Bushe. The responsibilities at present weighing on the British Cabinet imposed manifold duties upon its members and the Commission was the more grateful to the Secretary of State for having wished personally to take part in its work. The Commission interpreted his presence as a further tribute to the institution which the Mandates Commission represented.

In 1937, Mr. MacDonald's distinguished predecessor had appeared before the Commission in similar circumstances; at that time, already Palestine was in a state of effervescence, and a comprehensive solution of the country's different problems seemed imperatively necessary. The solution then seemed to have been found. To-day, as on the previous occasion, the preliminary condition for that solution was appeasement; and real appeasement, that of hearts and minds, was always based on a respect for right.

The Chairman invited the Secretary of State for the Colonies to make the preliminary statement which he had expressed the desire to present to the Commission.

PRELIMINARY STATEMENT BY MR. MACDONALD

Mr. MACDONALD thanked the Chairman and members of the Mandates Commission for the very cordial greeting extended to him, and assured them of his extreme anxiety to meet them in person in order to convey to the Commission, as authoritatively as possible, His Majesty's Government's intentions in promulgating the policy recently announced with regard to Palestine. Before making a formal statement on that subject, he wished to express his great appreciation of the Chairman's comments on the difficulty of the problems to be solved in Palestine, and the hopes generally entertained for an equitable and happy solution of those problems. He was certain that the discussions about to be opened would help both sides to understand the problem and arrive at a just judgment of what its solution should be.

Mr. MacDonald continued as follows:

I welcome this opportunity of meeting the Permanent Mandates Commission and giving to it an account of the policy which His Majesty's Government, with the approval of

Parliament, have decided to pursue in Palestine.

The members of the Commission have followed with special care developments in Palestine during the past seventeen years, for they have a certain responsibility in connection with this most difficult of all the mandates. The main burden of responsibility for carrying out the mandate naturally rests upon His Majesty's Government. They have not regarded their work in Palestine primarily as a load which it was troublesome to support, but as the fulfilling of a great trust which Britain, as the original author of the Balfour Declaration, viewed with sympathy even before the many other nations which subsequently approved it. But undoubtedly the administration of the mandate has brought in its train difficulties, the consequences of which other nations have watched with anxiety, but which Great Britain alone has actually had to face in the practical sphere. Only Great Britain has spent her treasure--to the extent of many millions of pounds--in the execution of the mandate; and only Great Britain has had large numbers of her civilian officers and soldiers killed in its defence. It is proper that the nation which is entrusted with the duty of fulfilling this international promise to the Jews and the Arabs, and which gains such benefits as may accrue to the Power which administers Palestine, should bear the hardship and loss associated with the work. But that nation is also entitled to receive from the others which have supported the objectives of the mandate, but which have no direct responsibility in attaining them, a ready understanding, and a willingness to give full weight to the practical difficulties which have arisen in the execution of this peculiarly difficult task.

The members of the Mandates Commission have watched with growing concern events in Palestine during the past few years. They are aware of the reasons for delay in arriving at the clearer definition of policy which is now contained in the new White Paper. The announcement of this policy is the final act of a prolonged consideration of a stubborn, contrary problem.

After the enquiries following the serious disturbances of 1929, His Majesty's Government proposed to make another move in the direction of giving a measure of self-government to the people of Palestine, and they announced their intention to set up a Legislative Council generally on the lines indicated in the White Paper of 1922. It was

then hoped that the participation of representatives of both sections of the community in a Legislative Council would begin to introduce a spirit of co-operation between the Jews and the Arabs. In 1935, after a reformed system of municipal government had been given a trial, a detailed scheme for a Legislative Council was produced. The plan was laid before Parliament early in 1936 and, after severe criticism in the House of Commons, withdrawn. The Arabs interpreted this withdrawal as due to powerful pressure from the Jews, who had bitterly opposed the proposal for a Legislative Council; and the incident was one of the causes that precipitated the general strikes and disorders which broke out again in the spring of 1936.

A Royal Commission was appointed to enquire into the underlying causes of the disturbances; to ascertain whether, upon a proper construction of the terms of the mandate, either the Arabs or the Jews had any legitimate grievances as to the manner in which the Mandate was being implemented; and to make such recommendations as it thought necessary for the removal of grievances and the prevention of their recurrence.

The report of the Royal Commission made it clear that the main cause of the trouble was Arab fear of Jewish domination, due to uncertainty about the extent of future Jewish immigration; and as a remedy for the situation which had arisen the Commission unanimously recommended a scheme of partition which would have divided Palestine into two sovereign independent Arab and Jewish States, whilst other areas of the country were to be retained under mandatory administration. This proposal was approved in principle by His Majesty's Government, subject to the working out of a practical scheme. But it involved the abrogation of the existing mandate, and therefore required the approval of the League of Nations. And so, following Parliamentary debates in London, the partition proposal was discussed at meetings of the Mandates Commission and of the Council and Assembly of the League two years ago, when His Majesty's Government received authority to explore the practical application of the principle.

Last year, a Commission under the Chairmanship of Sir John Woodhead was appointed for the purpose of ascertaining whether a practicable scheme of partition could be devised; but, after a careful examination of the economic, financial and other implications of the proposal, the Partition

Commission came to the conclusion that if it was to adhere strictly to its terms of reference it had no alternative but to report that it was unable to recommend boundaries for the proposed division of the country which would give a reasonable prospect of the eventual establishment of self-supporting Arab and Jewish States.

After considering this report, His Majesty's Government announced their conclusion that the political, administrative and financial difficulties involved in the proposal to create independent Arab and Jewish States inside Palestine were so great that this solution was impracticable. Therefore they would have to devise some alternative means of meeting the requirements of the Palestine situation. His Majesty's Government, at the same time, announced their intention to invite Jewish and Arab representatives to confer with them in London, in an effort to secure some kind of agreement between the two peoples in Palestine which would be the best of all foundations for conducting future policy; but His Majesty's Government made it clear that if the London discussions did not produce agreement within a reasonable period of time they would take their own decision and announce early the policy which they proposed to pursue.

You are aware that no agreement was reached in the London Conferences. The policy which has now been published has been framed in the light of the reports of the Royal Commission and the Partition Commission and also of the London discussions. Whilst conforming to their obligations to the Jews and the Arabs under the mandate, His Majesty's Government have been concerned to remove, as far as is possible at the present time, that uncertainty about future developments which is one of the causes of the tragedy now being enacted in Palestine.

The mandate is closely related to the Balfour Declaration of 1917, which was itself afterwards enshrined in the preamble to the mandate. The Balfour Declaration made a promise to the Jewish people, and also contained an assurance to the existing non-Jewish communities in Palestine. From the very beginning, therefore, policy in Palestine has been erected on a foundation of obligations to the Jews, on the one hand, and to the Arab and other non-Jewish communities in Palestine on the other. The Mandates Commission in 1930

endorsed the view that "the obligations laid down by the mandate in regard to the two sections of the population are of equal weight" and also the view that these two obligations "are in no sense irreconcilable"; His Majesty's Government hold firmly to these important opinions. There can be no just solution to the problem which belittles either of these two sets of obligations. Many people who have engaged in this Palestine controversy start from what may be called either a pro-Jewish or a pro-Arab standpoint, and each partisan group tends to place special emphasis on the undertakings to their own friends, and to underestimate--or in some cases even to ignore--the claims of the other party. That way lies injustice and a breach of the mandate. Also, at each stage of the controversy documents have been presented by the Jewish Agency and by bodies representing the Palestine Arabs respectively. Often these rival cases are ably argued. But they are necessarily *ex parte* statements; however conscientiously the Jewish leaders may argue the Jewish case and the Arab leaders argue the Arab case, they must each tend to place special emphasis on those factors in the history and documentation of the matter which support their own particular claims. The arguments so presented are often logical and impressive, but they leave out a part of the picture.

The United Kingdom Government and the British people as a whole are impartial as between the claims of the Palestine Arabs and the Jews. They are sympathetic and friendly to both the Arab and the Jewish peoples. British friendship for the Arabs has been abundantly shown in the decisive help which we have given them, in war and peace, in attaining their prized object of freedom over a large part of Arabia. Our friendship for the Jewish people has been expressed in the absolute equality of treatment with other British citizens invariably accorded to large Jewish populations in many parts of the British Empire, and latterly in our conspicuous support both in word and deed of the cause of the Jewish National Home in Palestine. In Palestine we are sympathetic to the position of both peoples. The Arabs and the Jews have different characteristics and gifts; they each have distinct contributions to make to the well-being of their common land; our paramount desire is to deal fairly by both peoples and to help them to live in peace and concord together.

The authors of the Balfour Declaration and of the mandate

who envisaged duties towards the Jews and duties towards the Arabs, which should be of equal weight, cannot have supposed that those duties would be in conflict, but that they would be mutually reconcilable. They cannot have intended that these two sets of obligations should contradict each other, and meet only in a violent clash. What then are these obligations? On the one hand was the promise of "the establishment in Palestine of a National Home for the Jewish people" and on the other was the assurance that "nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine". These general undertakings of the Balfour Declaration were afterwards enlarged upon and given more practical interpretation in the articles of the mandate.

Let me examine these undertakings further. First, the term "National Home" which is used throughout the Declaration and the mandate, is somewhat ambiguous and has been open to various interpretations. It has been claimed that it meant that Palestine should ultimately become a Jewish State. There can be no doubt that the possibility of a Jewish State was not excluded; it was regarded as a definite possibility by some of the leading statesmen who were familiar with the intentions of those who drew up the Balfour Declaration. Thus President Wilson spoke early in 1919 of laying in Palestine "the foundations of a Jewish Commonwealth", and General Smuts towards the end of the same year foretold an increasing stream of Jewish immigration into the country and "in generations to come a great Jewish State rising there once more". His Majesty's Government accept that the possibility of Palestine becoming a Jewish State was not precluded.

Yet in the Balfour Declaration and the mandate the terms Jewish State and Jewish Commonwealth are not employed. Instead, a term which was without precedent in constitutional charters, a term which lacked clear definition, the term "Jewish National Home" was used. It was deliberately used. For clearly statesmen engaged in waging war, still uncertainly situated in the middle of Armageddon--and even the statesmen gathered later in peace at Versailles and Geneva, attempting to create a new world--could not foretell with any confidence the result which would flow from the Balfour Declaration and the mandate. That must depend on others; it must depend in the first place on the response made by the Jews themselves to the

historic opportunity offered to them. The Jewish effort might be small or it might be great. It might meet with unforeseeable difficulties. Those responsible for the Balfour Declaration and the mandate were aware of these uncertainties hidden in the future, and so they chose deliberately to describe this part of their objective in Palestine by a phrase--"a Jewish National Home"--which might mean either a Jewish State or else something very much less.

If the extent of the effort which the Jews would make in re-establishing a National Home was one of the main factors which would determine ultimate developments in Palestine, the attitude of the existing Arab population was the other. When the mandate was framed, there were only some 80,000 Jews settled in the country; but there were already more than 600,000 Arabs, whose forefathers had been in occupation of the land for many centuries. From the beginning, the Balfour Declaration recognised certain duties to the non-Jewish population. While promising the Jewish people a National Home, it declared that "nothing shall be done which may prejudice the civil and religious rights of the existing non-Jewish communities in Palestine". This principle is reflected in the operative clauses of the mandate where--for example, in Article 2--it is laid down that "the civil and religious rights of all the inhabitants" are to be safeguarded, and in Article 6 that "the rights and position" of the non-Jewish sections of the population are not to be prejudiced.

There has sometimes been controversy as to what these phrases were intended to mean. Some exponents have sought to minimise the significance of the words and to suggest, for instance, that "civil rights" meant little more than civic rights. That is an untenable position. The provisions in the mandate must be regarded as giving effect, not only to the Balfour Declaration, but also to the spirit of Article 22 of the Covenant. The Arabs were a people whose well-being and development was to form a sacred trust of civilisation. They were a people who has been settled in a country for many centuries, but in whose land there was to be created a home for another people.

There can be no doubt that the rights of the Arabs which were to be safeguarded included all those political and social rights which a free people in such circumstances were entitled to retain. Should any doubt still remain upon

the point there exists contemporary evidence contained in the message communicated to King Hussein early in 1918, which indicates authoritatively what the British Government had in mind when it spoke of protecting the civil rights of the non-Jewish communities in Palestine. This message was delivered only a few weeks after the publication of the Balfour Declaration itself. That pronouncement, with its promise to the Jewish people, came as something of a shock to the Arab world. British advisers in the Near East were even fearful lest it should cripple the great Arab revolt itself. And so the British Government sent a representative, one Commander Hogarth, to explain to King Hussein the significance of the Balfour Declaration. It was a frank explanation. It did not seek to minimise the extent of British sympathy with Jewish aspirations in Palestine, nor Britain's determination to do whatever she properly could to help in the achievement of those aspirations. It was an honest and balanced description of what was intended regarding both the Jews and the Arabs. Commander Hogarth stated that Jewish opinion in the world favoured a return of Jews to Palestine, that the British Government viewed with favour the realisation of this aspiration, and that the Government was determined that no obstacle should be put in the way of the realisation of this ideal. But he stated categorically that this was only to be done "in so far as is compatible with the freedom of the existing population, both economic and political", and he added that the British Government was determined that, so far as Palestine was concerned, "no people shall be subject to another".

I would point out that it was not a new Government which gave this explanation of the Balfour Declaration. It was the same Government, with Mr. Lloyd George in 10, Downing Street, and Mr. Balfour at the Foreign Office. There can have been no misunderstanding; there can have been no confusion of thought. The Hogarth message does not add anything to the substance of the Balfour Declaration; it is an authoritative explanation of its content. It does not purport to be additional to anything which was afterwards put into the mandate. It is merely evidence that the words "civil and religious rights" and "rights and position" in the Balfour Declaration and the mandate were intended by those primarily responsible to include the normal political rights of a people.

That assurance to the Arabs must surely mean that Palestine

could not one day become a Jewish State against the will of the Arabs in the country.

So if the Jews did not respond sufficiently to the opportunity afforded to them, or if the Arabs objected to their country becoming a Jewish State, the conception of a Jewish National Home in Palestine was to be interpreted as something less than a Jewish National State. And indeed, already in the White Paper of 1922, which was drawn up concurrently with the framing of the mandate itself, the nature of this less ambitious Jewish community was described. I quote the whole passage:

"During the past two or three generations, the Jews have recreated in Palestine a community, now numbering 80,000, of whom about one-fourth are farmers or workers upon the land. This community has its own political organs; an elected assembly for the direction of its domestic concerns; elected councils in the towns and an organisation for the control of its schools. It has its elected Chief Rabbinate and Rabbinnical Council for the direction of its religious affairs. Its business is conducted in Hebrew as a vernacular language, and a Hebrew Press serves its needs. It has its distinctive intellectual life and displays considerable economic activity. This community, then, with its town and country population, its political, religious and social organisations, its own language, its own customs, its own life, has, in fact, 'national' characteristics. When it is asked what is meant by the development of the Jewish National Home in Palestine, it may be answered that it is not the imposition of a Jewish nationality upon the inhabitants of Palestine as a whole, but the further development of the existing Jewish community, with the assistance of Jews in other parts of the world, in order that it may become a centre in which the Jewish people as a whole may take, on grounds of religion and race, an interest and a pride. But, in order that this community should have the best prospect of free development and provide a full opportunity for the Jewish people to display its capacities, it is essential that it should know that it is in Palestine as of right and not on sufferance. That is the reason why it is necessary that the

existence of a Jewish National Home in Palestine should be internationally guaranteed and that it should be formally recognised to rest upon ancient historic connection."

That was written in 1922. Since then, Jewish development in Palestine has proceeded apace. The Jews have responded magnificently to their opportunity. They have achieved a creative work which can only be accounted for by the fact that, for many of them, the mandate was an inspired summons back to their historic homeland. I need not describe their performance; it is well-known to the members of the Mandates Commission who have followed it so sympathetically from year to year. The mandatory Power has been carrying out its duty. The Jews have been able to acquire a very large proportion of the best cultivable land in the country. The Administration has facilitated immigration so that over 300,000 new settlers have entered the country since the White Paper of 1922 was written. The Jewish community is no longer a small and weak minority. It counts some 450,000 souls and amounts to almost a third of the population. Its strength is out of all proportion to its numbers. It is skilful and self-confident; it is well disciplined; it has an economic power which makes its position in the country decisive. It has achieved to a degree which renders them a permanent part of the life of Palestine all those characteristics which the 1922 White Paper described as essential to the Jewish National Home. The Jewish National Home is established, and given reasonably peaceful conditions, it is secure and will grow as the years go by.

But, in the intervening years, the Arabs' attitude to this change has been more and more sharply defined. It has become evident beyond a shadow of a doubt that they would resent most bitterly the extension of this Jewish National Home into a Jewish National State. There is nothing inconsistent with the mandate in His Majesty's Government's declaration that it is no part of its policy that Palestine, against the will of the Arab population, should become a Jewish State.

I will return later to the constitutional problem in Palestine. First I would say something regarding His Majesty's Government's policy on immigration. It has been said in some quarters that our new proposals constitute a breach of the mandate. That is a matter to which His

Majesty's Government gave most careful consideration before reaching a conclusion, for they were aware of the view held by some people that a breach of the mandate might be involved. It is urged that the mandate is broken when the mandatory Power changes the time-honoured practice of settling the number of immigrants to be admitted to Palestine according to the country's economic capacity to absorb them.

But I would point out in the first place that "economic absorptive capacity" is never mentioned in the mandate. The mandate instructs that Jewish immigration is to be facilitated "under suitable conditions", and so long as "the rights and position of other sections of the population are not prejudiced". These are the important conditions regarding immigration laid down in the mandate, and they are the sole conditions.

It is true that the British Government at the time of the framing of the mandate itself laid down that "immigration should not exceed the economic capacity of the country to absorb them". That was in order to give the Palestine Administration more precise guidance as to the method by which, in the circumstances of the time, immigration should in practice be determined. I may remark in passing that the author of that phrase in the 1922 White Paper, Mr. Winston Churchill, has himself more than once repudiated the suggestion that it meant that immigration should always be permitted right up to the economic absorptive capacity of the country. He has urged that the term was designed so as to allow other relevant considerations to be taken into account. Nevertheless, it is true that from 1922 until 1936 the flow of immigration was in practice regulated strictly by the Administration's view of the country's economic absorptive capacity; and Mr. Ramsay MacDonald, in his letter to Dr. Weizmann in 1931, stated that this principle should be the sole criterion in considering the admission of immigrants. That principle received the approval of the Council of the League of Nations.

But His Majesty's Government do not regard any of these past statements as meaning that for all time and in all circumstances Palestine's economic absorptive capacity should be the sole factor taken into account in determining immigration policy. They do not regard the mandate as requiring any such rigid practice. Indeed, in certain circumstances--such as

those which have arisen recently--they would regard strict adherence to that practice as contrary to the mandate.

It is reasonable that in one set of circumstances the unqualified adoption of the economic absorptive capacity principle might be appropriate, whilst in totally different circumstances it would be inappropriate. In the early stages of the mandatory regime, and especially so long as conditions in Palestine were comparatively peaceful, it was proper that as many Jewish immigrants should be admitted as the economic progress of the country would permit. There was no reason for any other limitation. The task of building up the Jewish National Home was being undertaken. The immigrants were harming no one; indeed, they were helping to develop the country, which was incidentally in the interests of the population generally. And if peaceful conditions had always persisted in Palestine, there would have been no reason to alter this practice.

But there was always some Arab hostility to the Jewish immigrants. Occasionally, it broke out in acts of violence; and, during the past decade, the situation had been tense, until, throughout the past three years, a stubbornly sustained movement of greater violence than ever has received widespread support.

In our view, this steady growth of genuine Arab hostility is relevant in considering immigration policy. It may be argued that always, even in the early years, the Arabs have, in some form or other, protested against immigration. If we felt justified in ignoring their opinions then, why should we pay such special heed to them now? I would make three points in answer to that question. First, whilst the Jewish population in Palestine was comparatively small and powerless, the rights of the Arab population were not seriously prejudiced if fresh Jewish immigrants were permitted, even in the face of Arab protests. Secondly, it was our positive duty under the mandate to facilitate the establishment of a Jewish National Home which would have the strength in Palestine to maintain for ever those national characteristics described in the 1922 White Paper. The Jewish community in the early years had not that strength; but to-day, with its vigorous population of close on half a million citizens, it has. Thirdly, we have always hoped that--although, at first, Arab hostility to the introduction of large numbers of Jews into their country was natural and inevitable--the Arab population generally

would in time learn to appreciate the material benefits which Jewish development brought in its wake for the whole population. The industrial expansion, the swollen revenues of the administration, and the consequent extension of social services, have had a beneficial effect upon the Arab inhabitants as well as the Jews. We felt justified therefore, in the interests of the Arabs themselves, in persevering with Jewish immigration on a large scale, in the hope that the other section of the population would become reconciled to it.

But that hope has been disappointed. As the proportion of the Jewish population in the country grew, Arab hostility grew also, and became harder and more bitter, until it has now expressed itself in the movement of revolt which has been maintained ever since 1936. Immigrants who could be economically absorbed cannot be politically absorbed. Who will say that if an immigrant cannot be economically absorbed that is a relevant consideration, and he should be kept out; but that if he cannot be politically absorbed that is a matter of no importance, and he should be let in? In the former case, some other individual may lose his employment; in the latter, some other individual may lose his life. In His Majesty's Government's view, this consideration is a matter of great relevance.

What is the reason for this intense Arab opposition? It is not that the Arabs are incapable of enjoying the material advantages which the development of their country will bring to them. They are human, and in other circumstances they would appreciate this. But they are not thinking of material things. They are thinking of something more precious to them than any material advantage. They are thinking of their freedom. They recognise the industry and the skill and the wealth of the Jews, which are superior to those of most peoples, and they fear that the time is soon coming when the Jewish population will dominate them in their native country not only economically, but socially, politically and in every way.

So their protest has swelled until large numbers of Arabs have shown themselves prepared to lay down their lives in what they regard as the defence of their people. Sooner or later, the time must come when the mandatory Power, which is charged to safeguard "the rights and position" of the Arabs, is in duty bound to take serious note of this

passionate protest. Sooner or later, the time must come when to continue ignoring it would be to infringe the specific instruction of the mandate. If the protest had merely been the disreputable action of terrorists and bandits, then it could pass unheeded, except by our soldiers and policemen. But although the movement of revolt has been disgraced by many acts of murder by bandits of the worst type, it has also borne the undeniable stamp of a wide, patriotic, national protest.

The words of the Balfour Declaration on the matter are strong. "*Nothing* shall be done which *may* prejudice the civil and religious rights of the existing non-Jewish communities".

The mandate says that the Administration "while ensuring that the rights and position of the other section of the population are not prejudiced, shall facilitate immigration under suitable conditions". The rights referred to are the normal political rights of a people. And, normally, those rights would include the power to have their voice heard against a flow of immigration which threatened to relegate them to a position of virtual inferiority in their own country. It seems to His Majesty's Government that the rights guaranteed to the Arabs in the mandate would be definitely prejudiced if, now that immigration has made the Jewish population a vast proportion of the whole population, and given it a position already of economic dominance, the mandatory Power were to continue to permit indefinitely a flow of further immigration against a strong national protest which is supported by every articulate section of Arab opinion.

Of course, the point at which it is decided that there shall be no more immigration without Arab acquiescence must to some extent be fixed arbitrarily. The mandatory Power, which is responsible for administration and the restoration of law and order in Palestine, is the proper and best judge of when that time has come. The Arab representatives have urged upon us that immigration should be completely stopped forthwith. But we cannot accept that proposal. There are Jewish settlements in which more immigrants are required to develop the land. There are Jewish industrial enterprises which have been established in the expectation of a further immigration of money and men. It would be unfair on the Jewish National Home to allow no time for a gradual adjustment to new circumstances. An abrupt stoppage of immigration now would cause an upset in Jewish industry and

produce economic and financial results which would affect adversely the well-being of the population generally. But also, His Majesty's Government are concerned to help in any way that they properly can the settlement in new homelands of Jewish refugees from Europe. They would not consider it right that the doors of the National Home in Palestine should now be closed to these refugees. Although the authors of the mandate can never have contemplated that this extraordinary pressure would be added to the urge of Jews to return to Palestine, and although it is generally agreed that, even in the best circumstances, Palestine could not provide a home for more than a proportion of Jewish people who wish to fly from Europe, His Majesty's Government believe that room should be found in Palestine for a further substantial number of refugees.

In view of all these considerations, they have decided that, if the economic absorptive capacity of the country permits, another 75,000 immigrants should be admitted during the next five years. But after the next five years, further Jewish immigration will take place only if the Arabs of Palestine are prepared to acquiesce in it.

I would draw attention to some other considerations. Under Article 2 of the mandate His Majesty's Government is made responsible for "placing the country under such political administrative and economic conditions as will secure the establishment of the Jewish National Home". That is one of the major obligations of the mandate. What is the effect on it of the events of recent years? Arab hostility towards the Jews in Palestine has been whipped up to a passionate heat; there is no security of life or limb for the citizens of the Jewish National Home; their orange groves have been destroyed; countless acts of sabotage have disturbed and hampered the economic life of the community, which is only being maintained at its present level by an extraordinary expenditure of money and lives; the material losses resulting from the troubles which have already taken place have not yet been fully felt; and the hostility towards the Jewish National Home is spreading steadily in the countries beyond the Palestine border. These circumstances do not add to the economic or the political security of the Jewish National Home; they detract from it. And if this evil situation were to be indefinitely prolonged and the deep and bitter feeling which it arouses were to become intensified, then indeed would the threat to the Jewish National Home be constant. These are the hard facts which

we have to face. We are not dealing simply with an argument on paper but with a practical political problem. If the Arabs of Palestine feel that immigration into their country is to be continued indefinitely, then their desperation will grow sharper; and the sympathy of their fellow Arabs in surrounding countries will become more active. To allow it to develop would be to encourage a situation which was gravely prejudicial to the political and economic security of the Jewish National Home.

Nor would the danger be confined to Palestine itself. The hostilities there threaten to become a cause of permanent unrest and friction throughout the Near and Middle East. In some ways, it is remarkable that Trans-Jordan has not before now been directly involved in the disturbances. In countries even farther afield there might be evil consequences. His Majesty's Government is compelled to take a most sober view of the consequences which policy in Palestine may bring in countries beyond its own borders.

Moreover, what is the alternative to the policy of seeking and requiring Arab acquiescence to further immigration after five years? It is the policy of continuing to facilitate Jewish immigration despite Arab hostility. That means ruling Palestine without the consent of a large proportion of the governed. It means altering steadily and to an important degree the position of the Arab population in their native country, against their own strongly expressed will. It means making this vital change in Palestine by force. I cannot bring myself to believe that the mandate intended that. Certainly, it seems to me to be contrary to the spirit of the League of Nations. The League was brought into being precisely so that political and territorial changes might not be accomplished by force, but to provide a means by which necessary changes could be achieved by consultation, negotiation and consent between peoples. That is the method that we are proposing in the future in Palestine. His Majesty's Government have not said that after another five years there shall be no more Jewish immigration into Palestine. They have said that after that period such immigration will require Arab acquiescence.

His Majesty's Government are charged by Article 6 of the mandate to encourage close settlement of Jews on the land, provided that the rights and position of other sections of the population are not prejudiced. Since 1921, land sales in Palestine have been

uncontrolled, and a considerable part of the best agricultural land in the country has come into Jewish hands. So long as this process did not threaten the position of the Arab population, which is mainly dependent on agriculture, the Administration did not contemplate any restrictive legislation.

But, during recent years we have received repeated warnings from Commissions of Enquiry that the position of some small Arab landowners already required special protection. The members of successive Commissions have held this view unanimously. They have reported that, in some parts of the country, the Arab population was so congested that, with its present methods of cultivation, there was no room for further land alienation without a loss of livelihood to Arab cultivators; and they recommended that, in those places, there should be a statutory prohibition of land sales. In other areas, they reported that the situation was such that land sales should be restricted if the risk of Arab land shortage on a serious scale was to be avoided. We have to keep in mind the natural increase which will take place in the Arab population.

His Majesty's Government are anxious that the development of the Jewish National Home should be as unhampered as possible by barriers placed in the way of further agricultural settlements. But their duty under the mandate is clear. They have to safeguard adequately the rights and position of the Arab population which is primarily dependent on agriculture; and so they have decided to give the High Commissioner powers to prohibit or restrict land sales in any part of Palestine.

There will be areas where prohibition is enforced; there will be other areas where land sales will be permitted, subject to the authority of the Government being obtained; and there will be other areas where land sales continue to be uncontrolled. As far as conditions permit, the Government's policy will be one of dynamic agricultural development. The Government will encourage the improvement of methods of cultivation, so that congested areas may become less congested; and it is not impossible that, as the situation develops, an area which was at first a prohibited area may become one in which only restriction applies and a restricted area may become free.

I return then to the constitutional proposals in our policy. It is suggested that by them we hand over a Jewish minority in Palestine to the rule of an Arab majority. Were we to do this I agree that we should be committing a breach of the mandate. But I am encouraged to believe that our White Paper does not propose anything of the sort, by the knowledge that the Arab representatives at the recent London Conference rejected these proposals precisely because they did not give an Arab majority control.

We are charged by Article 2 of the mandate with "placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish National Home". To place unqualified power in the hands of an Arab majority would defeat that purpose. Let me give one example of the way in which, easily and swiftly, an Arab majority in a legislature might, if it were so minded, destroy the National Home. It is an example which I have often quoted to leading Arabs, to show them the impossibility of their demand for unrestricted rule by an Arab majority. Much of the Jewish economy is dependent on secondary industries; these industries are almost entirely Jewish concerns and the Arabs are not directly interested in them; but much Jewish capital is sunk in them and large numbers of Jews are dependent upon them for their livelihood. So they would be a good target for anti-Jewish attack. These industries depend on protected tariffs. It would be possible for an Arab majority in a single legislative act to reduce or abolish these tariffs, and so to render destitute large numbers of the citizens of the National Home. Critics are apt to retort that to withhold from an Arab majority the right to enjoy the normal privileges of a majority is a negation of democratic principles. But there are many democratic States in which special provision is made to protect the interests of racial and other minorities. And though the Jews may be a numerical minority in Palestine, they are not an ordinary minority. They are an extraordinary minority. One of the purposes of the Balfour Declaration and the mandate was to facilitate the establishment of a Jewish community in one country in the world where it would not suffer the insecurity and disabilities of a minority. Whatever the number of its citizens, the Jewish National Home has a special status in Palestine. As long ago as January 1918, Commander Hogarth, in his message to King Hussein delivered on behalf of the British Government, laid down the principle that "so far as Palestine is concerned . . . no

people shall be subject to another". That principle seemed to be acceptable to the Arab leader then. It is a principle which must be carefully maintained in any constitutional arrangements in Palestine.

His Majesty's Government is bent on preserving it in the developments which it proposes. One of our instructions under the mandate is to create "such political, administrative and economic conditions as will secure . . . the development of self-governing institutions". We have endeavoured from time to time to make a start with these institutions; but our efforts have been frustrated. For twenty years, the animosities produced by our steady achievement of the obligation to establish the Jewish National Home have barred all progress with the fulfilment of this other obligation, which is so characteristic and essential a part of the whole mandate system. Whenever we have made a proposal, it has been rejected either by the Arabs because they thought it too favourable to the Jews, or else by the Jews because they thought it too favourable to the Arabs.

We think the time has come to make another effort. We propose that, as soon as peace and order have been sufficiently restored, Arabs and Jews should begin to be officially associated with the work of central government. We contemplate a transitional period, and at the end of it the creation of an independent Palestine State. I need not trouble the members of the Commission in this opening statement with a recital of the safeguards for Jewish interests which will characterise the constitutional arrangements during the transition period. They are indicated generally in the White Paper.

But I must refer to the proposal for the creation eventually of an independent State. Its constitution is not sketched in the White Paper. The body which is to be set up to consider the constitution of an independent Palestine will not even meet until some five years from now, when it may be hoped that conditions in Palestine, and relations between the Jews and Arabs, will be happier than they are to-day. Time is needed for hatred and suspicion to be removed, for the Jews and Arabs to accustom themselves to the fact that they have to live side by side in Palestine, and for tolerance and co-operation to grow between them; it is too early to speak with any confidence of the form of constitution which will be appropriate when the peoples of

Palestine are ready to become self- governing.

But the White Paper declares what must be the fundamental principle of the independent State. It must be one "in which the two peoples in Palestine, Arabs and Jews, share authority in government in such a way that the essential interests of each are secured". Thus the principle of non-subjection of one people to the other is written firmly into His Majesty's Government's statement of policy. Again, His Majesty's Government, who will be represented in the work of constitution making, have declared in the White Paper that, before the mandatory Power withdraws from responsibility for government in the country, it must be satisfied that "adequate provision has been made for . . . the special position in Palestine of the Jewish National Home".

As I say, it would be premature now to attempt even to sketch the constitutional provisions which would be most appropriate to secure "the essential interests" of the Arabs and the Jews. It may be that the State should be formed on a unitary basis; it may be that it should be a federal state. It may be that the best arrangement would be to establish a predominantly Arab province or provinces, and a predominantly Jewish province or provinces, and to give to each of these political units a large measure of local autonomy under a central government dealing with matters of common concern between them. What is essential is that each people, both the Arabs and the Jews, should be free to live its own life according to its own traditions and beliefs and genius. Only by means of that freedom to each people can peace, friendship and prosperity be restored and placed upon permanent foundations in Palestine. His Majesty's Government do not claim that the policy they have announced will achieve these ends in the near future. The animosities of the past few years have gone too deep for that. But they have decided on this policy because they believe it to be the best calculated to turn events towards the great objectives and hopes which all who are concerned for Palestine must have in their hearts.

The accredited representatives withdrew.

Palestine: Procedure to be followed in Future Debates.

After an exchange of views, *the Commission decided that, at the next hearing, the questions put to the principal accredited representative would, in the first place, be directed to elucidating the relation between the policy outlined in the White Paper and the terms of the Palestine mandate.*

THIRTEENTH MEETING

Held on Friday, June 16th, 1939, at 10.30 a.m.

Palestine: Policy laid down by the United Kingdom Government in the Document entitled "Palestine--Statement of Policy" of May 1939 (continuation): General Discussion.

The Right Honourable Malcolm MacDonald, Sir Grattan Bushe and Mr. Downie, accompanied by Mr. Moody and Mr. Kirkbride, came to the table of the Commission.

The CHAIRMAN stated that the Mandates Commission proposed to take the 1939 White Paper as a basis for the discussion, dealing in turn with the three sections into which it was divided, but not quite in the same order; it would start with "Immigration", Section 2, then passing on to "Land", Section 3, would finish with "Constitution," Section 1.

Before studying the White Paper in that order, the members of the Mandates Commission wished to ask certain questions in connection with Mr. MacDonald's preliminary statement.

M. RAPPARD was very much interested in the presentation of the new policy by the Secretary of State for the Colonies. He admired his optimism in speaking of the statement as the final act under consideration. M. Rappard found it extraordinarily difficult to believe that it was a final act, not only on account of the substance of the policy, but also on account of the uncertainty prevailing all over the world and particularly in the Near East. It was of the greatest possible interest to the Mandates Commission,

which was called upon to examine the administration of Palestine in the light of the mandate, which had been applied in an appreciably different spirit for the past seventeen years.

One point which struck M. Rappard in Mr. MacDonald's statement was his comment on the meaning of civil and religious rights, which limited the action of the mandatory Power in its obligation to establish in Palestine a National Home for the Jewish people. Mr. MacDonald defined those civil and religious rights as those political and social rights which a free people in such circumstances were entitled to retain. M. Rappard felt some difficulty in accepting that meaning. Was it not a matter of principle that in interpreting a text one should so construe it as not to make it self-contradictory? The fundamental political and social rights of a free people surely included the right to object to the establishment, within the boundaries of their country, of a national home of another people. To say that it was a duty to establish a National Home for the Jews in Palestine without doing anything which might prejudice the political and social rights that a free people should be entitled to retain did not make sense, because that free people was bound to object. M. Rappard was inclined to believe therefore that the intention of the authors was to put a narrower meaning on the term "civil and religious rights". The same terms were used in the Preamble and in Article 2 of the mandate where they applied to "all the inhabitants of Palestine, irrespective of race and religion". M. Rappard thought they should naturally be taken in the same sense in both passages.

How could there simultaneously be two entirely free peoples within the boundaries of the same country? He thought that all the circumstances, including past history, would lead one to interpret civil and religious rights in a more restricted sense--namely, the individual and also collective rights which a community enjoyed, such as those which were recognised in minority treaties as fundamental--the right to property and respect of the person, for example. Such an interpretation was compatible with political action of the very drastic nature entailed by the establishment in a country of a national home for another people.

M. Rappard therefore found it difficult to accept Mr.

MacDonald's interpretation. It was not a verbal quibble, but something fundamental, because, if the authors of the mandate

were to make of the establishment of a national home an obligation only in so far as it did not prejudice the political and social rights of the existing inhabitants, Palestine could certainly not become the living home of another numerous and energetic people: for that would be incompatible with the complete freedom of the native inhabitants.

Mr. MACDONALD said he was grateful for the point which M. Rappard had made about what he called his optimism in speaking of a final act. He would like to correct that impression. Mr. MacDonald could see that the text of his statement was a little ambiguous, but the sentence in question spoke of the statement of policy being the final act of a prolonged consideration of the problem. What he meant to convey was that, during the past two or three years, His Majesty's Government had been uncertain as to what the more clearly defined policy within the mandate should be. They had considered the possibility of partition and various other policies during those three years. The statement of policy was the final act at this stage of attempting to define policy more clearly and to set a course more definitely towards the next stage; it certainly was not the final act of the drama.

M. Rappard doubted whether the interpretation which had been put upon the phrase "civil and religious rights" was not too wide. Mr. MacDonald thought the members of the Commission would appreciate that he had been referring in his statement to the expression "civil and religious rights" as used in the Balfour Declaration and in the preamble to the mandate. He quite agreed that, if there were no other evidence as to what civil and religious rights meant in the Balfour Declaration, it would be open to the narrower interpretation which M. Rappard had put upon it. On the evidence of those words alone in the Balfour Declaration, the balance of the argument might well be on the side of M. Rappard; but there was evidence as to what the authors of the Balfour Declaration intended by that phrase because a message had been sent some two months afterwards to King Hussein which purported to interpret the Balfour Declaration, and (as he had pointed out in his statement) it was a very honest interpretation.

If this had merely been a piece of political juggling--something done behind the scenes of which other people should not know--he would have supposed that the British Government's messenger would have sought to whittle down the promise made to the Jews; but it was clear that his instructions had been not to whittle it down. Commander Hogarth said perfectly frankly that the Jews had this urge to go to Palestine. It was a constant factor. The British Government had great sympathy with that urge, and were determined that no obstacle, subject to certain conditions, should be put in the way of their return; and, if he might use the phrase, the full-blooded way in which the messenger spoke to the Arab leader of the British Government's promise to the Jews was, Mr. MacDonald thought, evidence that this was an absolutely honest, fair and balanced statement of what the British authors of the Balfour Declaration had in mind.

He thought, therefore, that great importance must be attached to what Commander Hogarth was instructed to say in the matter of civil and religious rights. The latter was instructed to say that the return of the Jews to Palestine would be encouraged to the full by the British Government in so far as it was compatible with the freedom of the existing population, both economic and political. That word "political" did give a much wider meaning, therefore, to the words "civil and religious rights" than M. Rappard had suggested should be put upon them.

The Mandates Commission was concerned much more with the mandate than with the Balfour Declaration; but the United Kingdom Government had had a great deal to do with the drafting of the mandate. Mr. MacDonald was quite sure that other Governments which were concerned with the mandate were anxious to put into it the spirit and intention of the Balfour Declaration. He therefore thought it of real importance to try to ascertain exactly what His Majesty's Government had in mind in putting those words into the Balfour Declaration. But, when it came to the mandate itself, he did not base his case simply upon the words "civil and religious rights" in the preamble and in one of the articles. It might well be that in the article which referred to "civil and religious rights" the phrase had a narrower meaning because, in Article 6, the word "rights" without any qualification was used; and he contended that the word "rights" there and the complete

expression "rights and position" ought to be read as having the full political meaning which he had suggested.

It seemed to Mr. MacDonald that this could be fairly, properly and convincingly contended, because it had to be recognised that this particular mandate had to conform to the whole spirit of the mandates system. It had to conform to Article 22 of the Covenant of the League. He thought that the spirit of Article 22 required a mandate to pay heed generally to the wide political rights, the wide natural rights, belonging to a people who had been settled, as the Arabs had been, in Palestine for many centuries. He entirely agreed that this was not a simple question--indeed that it was an extremely difficult one--and that possibly there was room for the suggestion that there was a conflict between the one obligation to the Jews and the other to the Arabs. He would only say that it had been the view of the Mandates Commission--as it had always been the view of the United Kingdom Government--that those two sets of obligations were reconcilable.

Mr. MacDonald quite agreed that, to some extent, the obligation to protect the rights (as he thought, wide rights) of the existing population in Palestine, was affected by the obligation to establish the Jewish National Home; and, in practice, this necessarily meant some modification in the protection of the political rights of the Arab population. The latter could not be protected absolutely, because there was the other obligation to facilitate the establishment of a Jewish National Home, and to create conditions under which it was politically, economically and administratively secure. That was why, for nearly twenty years now, His Majesty's Government had felt that that obligation to establish the Jewish National Home forced it into a position of ignoring the strong views of the Arabs, often violently expressed, about the incoming people building their home in Palestine. What had to be done was to find the point at which the obligation to the Jews and the obligation to the Arabs to protect their rights could be reconciled. It was a difficult point to find, he admitted; but it seemed to him that it was to be found round about the moment when there had been established in Palestine a National Home for the Jews which had all the characteristics described in the 1922 White Paper to a degree, and with a strength, which enabled it to maintain itself permanently in Palestine. When that point had been reached, it had to be recognised that, if the

Arabs felt extremely strongly about further Jewish immigration, it followed that to expand the National Home further against Arab wishes must necessarily involve prejudice to Arab rights.

It was a difficult situation to deal with; but there must come a point where a reasonable compromise between the obligations to the two sides should be found; and it seemed to Mr. MacDonald that in the policy upon which His Majesty's Government had now decided they had, as fairly as could be, reconciled the obligation to the Jews and the obligation to the Arabs.

M. Rappard had suggested that, in taking action of this kind, which secured what he would call the political rights of the Arabs, His Majesty's Government were to that extent prejudicing the political rights of the Jewish population, and that, if the words "civil and political rights" in the mandate covered the political rights of the Arabs, they also covered the political rights of the Jews. That, Mr. MacDonald agreed, was a point of considerable importance. The political rights of the Arabs must be protected and also the political rights of the incoming Jews. That was the constitutional problem which had been set, and which His Majesty's Government were approaching in the White Paper. He would only say that he did not think it was true that it was impossible to assure political freedom to the Arabs and also to the Jews. But he thought that, before the details of that problem could be worked out, time must be allowed for the situation to develop a good deal further, time for tempers to cool, and time for the Arabs and Jews to get together more than they had as yet.

But it should not be impossible to devise, for instance, a federal constitution under which the Arabs would have an immense amount of freedom in the province or provinces which belonged to them, while the Jews would have the same freedom in the provinces allotted to them. Mr. MacDonald did not say that this was a final solution; but he felt it was perfectly possible, under such a constitution, to give both peoples the political freedom to which they were entitled according to both the letter and the spirit of the mandate. There were other federal constitutions in countries situated not very far from Geneva, where there were different racial groups, and a compromise had nevertheless been reached. Whilst the problem in Palestine was admittedly more difficult, he did not believe it was

impossible of solution.

M. RAPPARD thanked the Secretary of State for the Colonies for his observations and for the spirit in which he had spoken.

It must be realised that the Mandates Commission was entrusted with a very difficult task and was not approaching it in any contentious spirit. It was not seeking to find fault. In fact, it was seeking not to find fault; but that was not a very easy task! The Commission had always done its best to approve the efforts of the mandatory Power, and had been almost acrobatic in its attempts to agree with the fluctuations of the latter's policy. When Mr. MacDonald said that in the view of the Mandates Commission the two sets of the obligations in the mandate were reconcilable, he used an expression to which M. Rappard preferred the one Mr. MacDonald had himself used on the previous day, when he had said that the Commission had endorsed the view of the mandatory Power. The Commission had always done its best to endorse the views of the mandatory Power.

In the present case, however, M. Rappard could not help finding very great difficulty. He did not propose at present to discuss the legal value to be attached to the Hogarth declarations--of which a great deal was now being made after some seventeen years of silence; but, even taking the, at their face value, he attached particular importance to the last part of the statement made by the accredited representative in which the latter said that, in the view of the United Kingdom Government, a state of affairs should be set up in Palestine in which neither of the two elements should be subjected to the other. That was the fairest interpretation of the mandate. If the Jews objected to the immigration of Arabs, he could understand the mandatory Power intervening to say that, since neither of the two elements should be subject to the other, the Jews had no right to object to the influx of Arabs, even if the latter were attracted by the economic conditions created by the Jews. In any case, M. Rappard did not see how the immigration policy--with which the Commission would deal later--could be made to depend on the wishes of the Arabs, since that would be subjecting one of the elements of the population to the other.

In a speech in the House of Commons, Mr. MacDonald had said

that it would be wrong to assume, supposing the inhabitants of Palestine were Englishmen, Frenchmen or Americans, that those inhabitants would have no right to object to Jewish immigration beyond a point into their native country. M. Rappard thought that these inhabitants would never have agreed in the first place to be put in such a situation. It was true, however, that since the Arabs became articulate, they had never agreed to the establishment of a National Home for the Jews in their territory.

It was for that reason that M. Rappard found it difficult to endorse the views put forward by the Secretary of State for the Colonies. The latter's interpretation was contrary to his own reading of the mandate: it was contrary to all the previous interpretations of the mandatory Power, and it was contrary to the interpretations of the surviving members of the group responsible for the drafting of the Balfour Declaration: it was contrary to the views of the Jews, and it was also contrary to the views of the Arabs, because the Arabs had from the start objected to the Balfour Declaration and to the mandate itself and, if the mandate and the Balfour Declaration had been susceptible of an interpretation which would have allowed a limitation in deference to the views of the Arabs, M. Rappard did not think they would have objected to the policy.

He therefore found in the Arabs' consistent and continuous objection to the mandate and the Balfour Declaration a confirmation of the view that those two documents meant something to which the Arabs would have had reasons to object, whereas the interpretation at present put upon them, which secured a very definite preponderance of the will of the Arabs over the Jews, would have been much less objectionable from the Arab point of view. No one would be happier than M. Rappard if, under the influence of the new policy, Palestine could be transformed into a kind of Switzerland; but, great as was the harmony between the various elements of the Swiss population, he was sure that if, for instance, the Swiss German majority were to say at a given moment that there were enough French Swiss in Switzerland and no more would be allowed, it would be the end of that harmony. The analogy with Switzerland therefore showed that that kind of Federation was possible only if there were the widest possible tolerance of all its members for the others; and the first manifestation of such tolerance was the tolerance of immigration.

Mr. MACDONALD appreciated that M. Rappard's remarks were more in the nature of comments than of questions which required answers. Accordingly, he would deal later with M. Rappard's reference to the Hogarth message. But, on the main point raised by M. Rappard, he would like to say something at once.

In the first place, M. Rappard had referred to a speech made by Mr. MacDonald in the House of Commons in which he asked whether, if Palestine (instead of being inhabited by a million Arabs whose forefathers had lived in the country for centuries) were inhabited by a million British, American or French people who were similarly circumstanced, it would be claimed that they had no right to object to further immigration beyond a certain point. M. Rappard agreed that it would not be possible to claim that those people would not have the right; but he went on to say that the Americans, British or French would never have agreed in the first place to the establishment of a Jewish National Home in their territory. But that was precisely the position of the Arab population.

A great deal had sometimes, quite properly, been made of the agreement between Dr. Weizmann and the Emir Feisal, in which the latter did consent specifically to the building of a Jewish National Home in Palestine. But in consenting to that, it should be pointed out, the Emir Feisal was consenting to the whole of the Balfour Declaration--which covered the civil and religious rights--and he was no doubt aware also of the assurance given by Commander Hogarth as to what that phrase meant. But, even so, the Emir Feisal's agreement was not valid to-day for the reason that he attached to it certain conditions regarding Syria which had not subsequently been satisfied, and it was therefore invalidated.

Furthermore, the Arabs of Palestine, as M. Rappard had said, had, from the beginning objected to the establishment of a Jewish National Home and were therefore in exactly the position of the British, the American or the French whom one had tried to imagine living in Palestine. If, therefore, the supposed British, French or American population would have had certain rights, it must be admitted that the Arabs had the same rights.

To make the analogy absolutely complete, suppose there were British, American or French people in Palestine who had the

Jewish National Home imposed upon them against their will by allies who had been victorious in a war. Obviously, such an imposition by force must interfere to some extent with what would otherwise be the perfectly natural rights to which M. Rappard and he himself had referred, and must modify those rights to some extent. But, surely, in the case of the supposed British, American or French people, as in the case of the Arabs, a point must sooner or later be reached in immigration beyond which the population would say it could not go, and beyond which it would be impossible to continue to ignore their very strong feelings.

Mr. MacDonald hoped the Commission would forgive him for making a reference to Scotland, which perhaps presented as close an analogy as could be found in the world to-day. Scotland was a comparatively small country with a comparatively small population; in the highlands there was any amount of room for economic development, and there the Jews, with their genius for economic creation, might be able to carry out great developments, which would incidentally benefit materially the whole population. There was also a further analogy. A Scotsman did not have to stay in Scotland: he could go to England, to Australia, to Canada --all over the world--and enjoy political freedom and be a citizen of the same Empire. He was therefore in a very similar position to the Arab of Palestine who, we were told, was able to settle in other Arabian countries and be at home there. Scotland therefore presented a fairly complete analogy. Mr. MacDonald could not, however, conceive that, if the Balfour Declaration had been written about Scotland, anyone would have said that the Scots had no right to protest at a moment when the Jewish population reached the position of economic dominance and immense size which it had reached in Palestine to-day. He believed that it would be said that the Scots' civil and religious rights should be interpreted as fully qualifying them to say, at a given moment, that they could allow no further Jewish immigration without prejudice to their position.

M. RAPPARD pointed out that the wisdom or the justice of the Balfour Declaration was not being discussed, but rather its application and the obligations which flowed from the mandate in which it was enshrined. He was very ready to take the analogy of Scotland in regard to the point that the Scots would never have accepted the Balfour Declaration. But the Arabs were subjected to the Balfour

Declaration at the same time as they received their independence. That was an historical, constitutional fact. If the Scots had been consulted, for instance, about the choice of a climate for their country, they might perhaps have objected to the climate which they had; but the climate was a fact beyond discussion. The Balfour Declaration was, so to say, the climate of Palestine!

It was perfectly clear that, if Scotland were compared with Palestine, one would be led to admit that the Scots would object to the establishment in their country of a national home for another people just as the Arabs had done. But such had not been the historical destiny of the Scots. The Arabs, on the other hand, had been obliged to submit to that fatality.

M. Rappard repeated that the task of the Mandates Commission was not to judge the wisdom or justice of the Balfour Declaration or its consequences, but merely to examine the administration in the light of the mandate in which the Balfour Declaration was enshrined.

Mr. MACDONALD said he could accept that position. What was under discussion was the Balfour Declaration, which was reproduced in the preamble to the mandate, and the mandate itself; and the issue, as M. Rappard had pointed out very clearly, was the meaning of the words "civil and religious rights" and of the words "rights and position" as used in the Balfour Declaration and/or the mandate. Mr. MacDonald contended that it was known what the words "civil and religious rights" were intended to mean because of the evidence he had referred to, and that the words "rights and position" which appeared only in the mandate itself must be interpreted in the light of the Covenant and Article 22.

It must be recognised that the Arabs of Palestine, like any other people who came under the mandatory system, were protected by Article 22 of the Covenant; and it seemed to him that, if the spirit of Article 22 really did apply to the Arabs of Palestine, even with the modification in practice caused by the obligation about the Jewish National Home, then the words "rights and position" meant something wider than the limited interpretation put upon them by some people. Otherwise, the Arabs of Palestine were being treated differently from all other peoples, such as the

natives of Africa, which could not have been what the authors of the mandate intended.

Count DE PENHA GARCIA said he had followed with great interest the statements made on behalf of the mandatory Power. It seemed to him that there was not so much a change of policy as a change in the way of considering the duties of the mandatory Power towards the two peoples in Palestine and towards the mandate. The question of the legal interpretation of the mandate was, of course, both interesting and important.

Two years ago, the mandatory Power had taken the view that the mandate did not correspond to the needs of Palestine, and had expressed the opinion that it had become almost unworkable. The mandatory Power had conducted several experiments; but the tragic situation had persisted ever since the beginning. In other words, the assent of the Arab population to the constitution of a Jewish National Home had never been forthcoming. On the contrary, there had always been keen and violent resistance which had made necessary the employment of the armed forces of the mandatory Power in order to restore peace.

Count de Penha Garcia thought this proved that the actual creation of a Jewish National Home in Palestine must be regarded as a political error and perhaps as an economic error--a political error, because the project of the creation of the home was carried through without securing the assent of the population already inhabiting Palestine, and an economic error, because the great economic success of the Jews, which had been the cause of the economic solidity of the country, had not greatly impressed the Arabs or altered their attitude. The Arabs might have derived great advantages from the inflow of capital and from the activity and the intelligence of the Jews; but what they desired was their liberty, and the view they took of their own situation was one which prevented them from appreciating the advantages which might be derived from the present situation.

He thought the historian of the future would be bound to take the view that it was a political error to contemplate the creation of a Jewish National Home in such circumstances. The mandatory Power had made the most praiseworthy efforts to solve the problem, which sometimes seemed impossible of solution. The Arabs were quite clear

as to what they wanted: they did not want the mandate but complete independence. The answer of the Jews was equally clear: they wanted a Jewish National Home, and, in that connection, Count de Penha Garcia would like to ask the accredited representative of the mandatory Power whether, if the latter succeeded in creating a Jewish National Home which could not be expanded and renewed from time to time by immigration, and if a stop was put to the acquisition of land by the Jews, he did not think it would become, in reality, a "dead" home.

Mr. MACDONALD said that Count de Penha Garcia had observed that it might have been a political error to launch the project of building up a Jewish National Home in Palestine without the consent of the Arab people. He did not wish to answer "yes" or "no" on that point. He would only say that strenuous efforts had been made to obtain Arab consent. Dr. Weizmann conducted negotiations with the Emir Feisal, to which he had already referred, with the object of securing Arab consent, and there was a moment--the brightest moment in the history of Palestine in the past twenty years--when both he and His Majesty's Government thought that agreement had been secured. Mr. MacDonald wished with all his heart that the spirit of agreement and co-operation with which that project had been launched had lasted, and he thought it was fair to say that it had not been the fault of the Jewish leaders that the agreement had not continued. Other political factors had come into play, and he entirely agreed that the whole picture would have been different if the initial co-operation between the Jewish and Arab leaders had been continued. He did not believe that on the basis of this policy it would be impossible, probably some years hence, to obtain an agreement between the Jews and the Arabs. That was His Majesty's Government's aim all the time, and Mr. MacDonald thought that the policy in the 1939 White Paper had a better chance than any other of securing that agreement. He did not say the chance was a very high one, but it was better than any others. It would perhaps be possible to work towards agreement when present passions had cooled down and he still thought that the objective should be to obtain an agreement between the two parties.

Count de Penha Garcia considered that the policy contained in the White Paper was perhaps not so much a change of policy as a different attitude towards the problems which the mandate had set. Mr. MacDonald could not admit that there had been any contradiction in His Majesty's

Government's policy. It was quite true that there had been an apparent contradiction: he did not believe it was a real one. It was perfectly true that, hitherto, His Majesty's Government had laid stress on economic absorptive capacity and had said that

to allow immigration up to economic absorptive capacity was a proper policy under the mandate. But it had never said that that would be the proper policy for all time; and he thought that its statements of policy on that matter had to be read as statements of policy

for the time being, and for the conditions of that time. He still believed that His Majesty's Government had been absolutely right during many years in saying that economic absorptive capacity should be the criterion. He also felt the Government was right now in modifying that policy, the reason being that the situation in Palestine was a developing one.

The first duty had been to build up a Jewish National Home. In order to build it up, it was reasonable that economic absorptive capacity should be a deciding factor. Under that principle, the Jewish National Home had increased to its very considerable present dimensions; and it seemed to Mr. MacDonald and to His Majesty's Government that there had been established a Jewish National Home of enduring strength, which, given normal circumstances, reasonable peace and adequate security, would be a permanent factor in Palestine's life; it was a home which would gradually increase. In reply to the question put to him by Count de Penha Garcia, Mr. MacDonald said that the home was not a dead thing, but a living thing. The age-groups of citizens in the Jewish National Home were comparatively low, and the natural increase of the Jews in Palestine after a period of years was expected to exceed in proportion the natural increase of the Arabs. The home would grow and become stronger and stronger, physically, culturally, economically and, no doubt, politically also, as the years and generations went by. It seemed to Mr. MacDonald that it was the task of statesmen not to consider the next few years, but to consider fifty years, a hundred years, generations hence. The Jewish National Home was a living factor in Palestine, whether immigration continued to be possible or not.

Count de Penha Garcia had called attention to another change of front which he attributed to the mandatory Power. Mr. MacDonald was not answering in a spirit of contention,

just as he knew that Count de Penha Garcia had not brought up the point in a spirit of contention. The latter had said that there appeared to be a change of front because, two years previously, the mandatory Power had said the mandate was almost unworkable--indeed, it had asked for a change of mandate, so that Palestine might be partitioned into a sovereign Arab State and a sovereign Jewish State with an "enclave" which should remain under mandate. That change of front might be more apparent than real. It might be that the final solution of the problem was something on the lines of what had been proposed two years previously. Then His Majesty's Government was asking for a partition requiring the creation of two independent sovereign States, which would have involved a change in the mandate. Its further enquiries had convinced it that this was impracticable for economic and financial, as well as for political, reasons. But supposing that the best solution should prove to be a federal system of government involving the creation of Arab and Jewish provinces with a great deal of local autonomy. Such a solution was not in principle dissimilar from the solution which His Majesty's Government had recommended so strongly two years ago.

Mr. MacDonald passed next to the specific question which Count de Penha Garcia had asked regarding the creation of a Jewish National Home. Count de Penha Garcia had said that, if His Majesty's Government had succeeded in the creation of the home in Palestine, as it claimed it had, and if that home could not be renewed by immigration and by the possibility of further purchases of land, would it not be a dead national home? Mr. MacDonald did not think it would. He hoped it was not a false analogy, but he would refer to Scotland in that connection. Scotland was not constantly renewed by Scottish immigrants coming from different parts of the world. The population remained fairly steady, and there was even an exodus from Scotland; but it remained a living home for the Scottish national people. He repeated that even without further immigration the Jewish National Home would, it seemed to him, by the laws of ordinary natural increase, be a living thing, and that it would continue to flourish and become more and more powerful as the years went by, provided it was secure from attacks by enemies. It was part of His Majesty's Government's policy that that security should be offered it. But apart from that, British policy did not exclude the possibility of further immigration, and it definitely provided for further land sales to Jews.

Count DE PENHA GARCIA said he appreciated the frankness and clarity with which Mr. MacDonald had replied to his remarks. From his Parliamentary reputation, the Secretary of State would seem to be a difficult person to argue with; but there was no question of argument--an endeavour was being made to make the position quite clear and to understand certain aspects of the policy of the mandatory Power to which it was quite conceivable that there would be objections.

He fully realised from the 1939 White Paper, that, like all human institutions, a mandate had to be regarded as subject to evolution. Variations in circumstances had to be taken into account involving either different interpretations or actual amendments and changes in the instruments. From the White Paper and from the new direction taken by the policy at the present time it would seem that increasing importance had been given to political factors, and he thought that those political considerations might be of greater weight in the future and might make the situation of the Jewish National Home more difficult than it was at present or had been in the past.

Arab States were in process of formation in the neighbourhood of Palestine and an international Arab consciousness was being developed. Obviously, the mandatory Power was bound to take account of such circumstances; it was therefore natural that two years previously the intervention of the Arab princes was welcomed and that Arab representatives, coming not only from Palestine but from other Arab territories, were heard at the recent London Conferences. The policy of the mandatory Power was bound to take account of present factors, which might well be different from those existing at the time when the Jewish National Home was first planned.

Count de Penha Garcia would like to ask whether he was right in his assumptions on three points which he considered to be fundamental and which might dominate the future situation.

In the first place, was he right in supposing that the mandate would continue in force, and that it was incumbent upon the mandatory Power to maintain peace and order in Palestine, in addition to the other duties arising out of the mandate?

Secondly, was it the case, as the accredited representative had declared, that its policy would never admit the idea of making one of the peoples in Palestine subject to the other, and therefore that its policy would never be directed towards the subjection of the Jews to the Arabs or vice versa?

Thirdly, was the mandatory Power still anxious to develop self-governing institutions? An attempt had been made in the past to secure progress along those lines, but the results had not been very satisfactory.

The present situation seemed to be a rather curious one in some respects. To take one example, the Arabs did not consider the Jews as Palestinians but as foreigners; and, before a Jew could become a Palestinian, he had to go through the process of naturalisation.

In regard to the distribution of land, the policy seemed to have been to separate the Jews and the Arabs. He would like to know if, in all these different measures, the mandatory Power was still directing its efforts towards the establishment of one State, an independent State which was neither Jewish nor Arab but the result of agreement having been reached between the two peoples by such means as might be found practicable.

Mr. MACDONALD said that he appreciated the kind reference to his Parliamentary reputation; but he would say that the Mandates Commission also had a reputation for doing its work very thoroughly and for being difficult to satisfy. He had been extremely frank in his remarks because he considered it his duty to let the Mandates Commission know exactly what was in the mind of His Majesty's Government both as regards the present and the future, so far as there could be any certainty about the future.

With regard to the points raised by Count de Penha Garcia; Mr. MacDonald quite agreed that the position of the Jewish National Home was a difficult one, and that all sorts of special precautions had to be taken to protect it; but, for the reasons which he had already given, he did not think that, if the sort of policy contemplated were carried out, the Jewish National Home would become "dead". If, on the other hand, a policy were pursued of continuing to reinforce the Jewish National

Home by immigration, without any set limit and right up to the economic absorbtive capacity of the country, what was going to be the effect of that policy, imposed as it would be against the wishes of the Arab people? Mr. MacDonald thought it would make the bitterness of the Arabs in Palestine, and of the great mass of Arab public opinion outside Palestine, against the National Home such that the Arabs would merely be awaiting the day when they could deal a very severe blow indeed at the Jewish National Home.

He thought that what was being proposed was absolutely consistent with the obligations under the mandate to respect the rights of the Arabs. The Arab population was politically conscious; and it had great power to embarrass the Jewish National Home economically, because the industries which were being developed could not thrive simply by selling their goods to the Jewish population in Palestine, however big that population might become. The economic well-being of the Jewish National Home depended more and more on the ability of the Jews to sell their goods to the Arabs in Palestine, the rest of the Arab world and Egypt. Care must be taken not to pursue a policy which would make the Arab world so hostile as to render the political and economic position of the Jewish National Home in Palestine precarious in the extreme.

It was one of the obligations under the mandate to create such political, administrative and economic conditions in Palestine as would secure the establishment of the Jewish National Home; and this could not be done if a policy were pursued which could only lead eventually to a general economic boycott of Jewish goods throughout the Near and Middle East.

It seemed to him that, if the alternatives were between a Jewish National Home established as it was to-day and developed by natural increase, and a policy of immigration continued indefinitely up to economic absorptive capacity, rendering hostile the whole of the Arab world, the former policy was the wiser one in the interests of the Jewish National Home itself.

In reply to the three specific questions which Count de Penha Garcia had put to him, Mr. MacDonald said that the mandate would remain in force until such time as the League of Nations was finally agreeable to its termination; it was the duty of His Majesty's Government until then to maintain

law and order in the country. As to the second question, with reference to what had been said about the principle of non-subjection of the Arabs to the Jews or *vice versa* in Palestine, His Majesty's Government emphatically based its whole policy on the principle of non-subjection. It was thought that the whole situation in Palestine would be lost if it were once admitted that the Jews were entitled to rule the Arabs or the Arabs the Jews. That was the principle on which His Majesty's Government's whole policy was based.

Count de Penha Garcia had asked whether the mandatory Power was still anxious to develop self-governing institutions, and had referred to difficulties involved in the development of such institutions in a country where the two peoples were on rather unfriendly terms. There were admittedly difficulties; but Mr. MacDonald had no hesitation in saying that it was the policy of the mandatory Power to develop self-governing institutions as far as possible. It had tried to do so from the very beginning: a first attempt had been made in 1922, and it was not the fault of the mandatory Power if it did not succeed. Since that time, further efforts had been made which had been unsuccessful for reasons with which the Commission was perfectly well acquainted. Those efforts would be pursued, and the answer therefore to that question was an unqualified affirmative.

Lord HANKEY wished to revert to a remark made by M. Rappard. The latter had spoken of the Jewish National Home as something which the Arabs had received along with their independence. He had compared it to the climate of Scotland. It must, however, be remembered that, in so far as the idea of a Jewish National Home had been accepted as a result of the Commander Hogarth explanations or as a result of the negotiations between Dr. Weizmann and the Emir Feisal, it had been accepted by Arab leaders who were not in a very strong position to speak for the Arab natives of Palestine, which was still under Turkish rule, at any rate in the earlier stages. At the time of the Hogarth negotiations, the Arab people of Palestine were a backward, primitive sort of people without political consciousness. As soon as they did wake up to the fact that a wealthy and alien people was crowding on to their shores, they very naturally became alarmed, just as the Australians would become alarmed if Asiatics were crowding on to their shores. That alarm became resentment, and resentment became

resistance. These facts did not alter the legal obligations of the mandate; but they ought surely to be borne in mind in the interpretation of the mandate, and were in any case a fact that the mandatory Power could not ignore.

In fact, the disturbances had led the mandatory Power to change its policy in the interests of peace and order. The mandatory Power was, he supposed, bound to change its policy from time to time. Under Article 12 of the mandate, it was responsible for the foreign relations of Palestine. Foreign relations, in the last resort, involved security, not only of Palestine, but of the Jewish National Home itself. It was bound to change its policy from time to time to meet changing circumstances.

A change of policy might conceivably involve a fresh interpretation of the mandate, if not a change of the mandate. Reinterpretation was a useful word which had been used by the Jewish Agency in asking for changes in regard to Article 18 to enable Palestine to hold its own in commercial negotiations with other countries. All this led Lord Hankey to put the question whether the mandatory Power claimed that the White Paper policy could be accomplished, not by way of a change in the mandate, but by a reinterpretation.

Mr. MACDONALD replied that it was definitely the view of His Majesty's Government that the White Paper policy did not require any alteration of the mandate; and, in coming to that conclusion, it had naturally consulted its own legal advisers on the matter.

In regard to the second part of the question--that was to say, whether a reinterpretation of the mandate was necessary--the answer was in the negative. His Majesty's Government was not suggesting a reinterpretation. Mr. MacDonald did not think he had said anything about the mandate which was inconsistent with what had been said about it throughout by His Majesty's Government. It was not the correct view to suggest that a reinterpretation of the mandate was necessary. He would rather put it as Count de Penha Garcia had done, and say that the position in regard to the mandate in Palestine was evolving; at one stage of the evolution, emphasis would properly be put on one mandatory obligation to a greater extent than on another. In the further course of evolution, a somewhat different situation might arise which would require that emphasis to

be shifted rather to another part of the mandate.

It seemed to him to be absolutely right that, in the early years--indeed, almost up to the present--the emphasis should have been laid on the obligation to the Jews. It had been necessary to lay emphasis on that obligation in building up the Jewish National Home in the manner already described. Until such a National Home had been built up, it was proper to lay emphasis on that part of the mandate which called for the facilitation of immigration and the close settlement of Jews on the land. As a result, considerable help had been given in the creation in Palestine of the Jewish National Home.

The time was bound to come, however--and it was absolutely in the nature of the mandate that it should come--when the emphasis should be somewhat shifted, and when a further expansion of the Jewish National Home, contrary to the express will of the non-Jewish population, might prejudice the rights of the latter. When that stage was reached, emphasis must, and quite properly could, be shifted to the protection of the rights of the non-Jewish sections of the population.

Mr. MacDonald did not think any reinterpretation at all was necessary. He was fully aware that some people had argued that the expression "civil rights" in the preamble and "rights" in Article 6 of the mandate must be given a narrow interpretation; and they were perfectly entitled to hold that view. It was, however, a view which had never been held by

His Majesty's Government. No statement had ever been made by an accredited representative of His Majesty's Government which specifically accepted the view that those words ought to be narrowly interpreted. His Majesty's Government had always held the view--and he thought it would have been difficult to hold any other in the light of Article 22 of the Covenant--that the rights of the non-Jewish communities in Palestine must be given a fairly wide interpretation. His Majesty's Government was not seeking any reinterpretation: it was only saying now that the time had come for the emphasis to be shifted towards those rights.

Lord HANKEY thanked the accredited representative for his statement, which cleared up a certain doubt in his mind, and which would be useful later in the discussion.

The CHAIRMAN thought that, as in any cross-examination, the Chairman was bound to exercise a certain reserve during an exchange of views such as the present one conducted by means of questions and answers. He was not prevented in any way from expressing his personal opinions, but his task was more particularly to clear up points that might otherwise perhaps remain obscure.

No one denied that the mandate for Palestine, like any other mandate, came within the framework of Article 22 of the Covenant. It remained to be ascertained whether, in particular, paragraph 4 of that article was applicable to the case of Palestine. Paragraph 4 read as follows:

"Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone . . ."

The Powers to which A mandates were allotted considered themselves to be under an obligation to prepare the ground for the transformation, within a shorter or longer period, into a state of complete political independence of the provisional *de facto* condition recognised by that provision of the Covenant.

The question raised by the Chairman was not without importance, since the basic principle of the present policy of the United Kingdom Government, like that which it had accepted in principle, in accordance with the recommendation of the Royal Commission in 1937, seemed to be the obligation which it had acknowledged of granting complete independence to the inhabitants of Palestine. It should, however, be remembered that the question whether paragraph 4 of Article 22 of the Covenant could be considered as applying to Palestine was one which had on occasion been disputed, and had given rise to differences of opinion. In that connection, the Chairman wished to recall what had been said at the twenty-fourth meeting of the thirty-second (extraordinary) session of the Mandates Commission (see page 193 of the Minutes) when a member of the Commission--they all deeply regretted the fact that his seat was on the present occasion vacant--referred to the matter and, in the light of historic facts, came to the following conclusion:

"It might be concluded that paragraph 4 of Article 22 of the Covenant applied only to Mesopotamia and Syria and not to Palestine . . . It was clearly feared that, if extensive autonomy was given to the Arabs, the establishment of a Jewish National Home would encounter serious difficulties."

The Chairman drew the attention of the accredited representative to this statement of M. Sakenobe and would be glad if, at a later meeting, he would let the Commission have his opinion on the point.

Mr. MACDONALD thanked the Chairman for having given him notice of the question. He was prepared to answer it immediately; but, as the lunch hour had arrived, it would perhaps be better to postpone his reply.

FOURTEENTH MEETING

Held on Friday, June 16th, 1939, at 3.30 p.m.

Palestine: Policy laid down by the United Kingdom Government in the Document entitled "Palestine--Statement of Policy" of May 1939: General Discussion (continuation).

The Right Honourable Malcolm MacDonald, Sir Grattan Bushe and Mr. Downie, accompanied by Mr. Moody and Mr. Kirkbride, came to the table of the Commission.

Mr. MACDONALD recalled the Chairman's observations at the close of the morning meeting to the effect that the Palestine mandate must be considered within the framework of Article 22 of the Covenant of the League. The Chairman had asked whether it was the view of His Majesty's Government that Palestine was referred to, or came within the ambit of, paragraph 4 of Article 22. Without enlarging on the point or making enquiries of lawyers who might possibly disagree, he felt it was a matter which was open to some doubt.

Mr. MacDonald would cite an experience of His Majesty's Government as the Government responsible for the administration of Palestine, which showed, at least, that a case could be made out for that mandate coming under paragraph 4. The Government had been very anxious to give a preference to Palestine fruits, basing itself on the

argument that Palestine came under His Majesty's Government and was not, so to speak, a separate Power; thus, a preference granted to the produce of Palestine in the United Kingdom market would not evoke the most-favoured-nation clause in commercial treaties, and expose the United Kingdom to claims by other Powers to enjoy a similar preference. But the Government were advised repeatedly that it was at least open to argument that Palestine came under paragraph 4 of Article 22 of the Covenant, that it was, therefore, in that sense another Power, or potentially another Power, and that His Majesty's Government could not give Palestine such a privilege and deny it to other foreign Powers competing in the same market. That was a concrete and most important example of how paragraph 4--the possibility of claiming that Palestine came under paragraph 4--had affected British policy with regard to Palestine.

Mr. MacDonald would not press that point further; it was a matter of doubt, and there were, of course, arguments to be advanced on both sides. But, in any case, paragraph 4 had this relevance; it seemed to him that the Arabs of Palestine could not be regarded as so utterly different from the Arabs of Iraq or Syria that rights which clearly belonged to the latter under paragraph 4 should be completely denied to their fellow-Arabs in Palestine.

Having said that, Mr. MacDonald pointed out that he had not based his argument with regard to Article 22, either at the previous afternoon's or at the last meeting, on paragraph 4, because that was admittedly a matter open to some doubt. In his preliminary statement on the previous day, he had said that the provisions of the mandate must be regarded as giving effect, not only to the Balfour Declaration, but to the spirit of Article 22 of the Covenant, and had then added: "The Arabs were a people whose well-being and development were to form a sacred trust of civilisation". He was basing that observation on paragraph 1 of Article 22, which stated that the well-being and development of these peoples in all the territories which came under the mandates system formed a sacred trust of civilisation. That was the paragraph of Article 22 which he had quoted at the morning meeting. His Majesty's Government felt that, if those words were applied in the spirit of the mandates system generally to the Arabs of Palestine, as they had to be, then they must declare that they could not deprive the Arabs of Palestine completely of their natural and normal political rights.

Supposing that paragraph 1 of Article 22 were applied to Tanganyika, for example, it would hardly be argued that there was freedom under paragraph 1 to do more or less as one liked in regard to the territory of the natives of Tanganyika. It would not be permissible to prejudice the natural and political rights held by them as human beings to the extent of ignoring completely their views about a large-scale influx of population.

Mr. MacDonald felt that it would be impossible under paragraph 1 of Article 22 to contend that the words "rights and position" in Article 6 of the mandate merely meant some rather narrow conception which was less than the normal political and natural rights of human beings whose well-being and development were a sacred trust of civilisation. It was really on paragraph 1 and the whole spirit of Article 22 that he wished to base his contention rather than on paragraph 4.

Mlle. DANNEVIG had listened with great interest to the discussion which had taken place that morning, and had been impressed with the thoroughness with which the subjects had been treated. In her opinion, however, there was one main question which overrode all others. She could quite well understand that the Government had found it necessary to send the Hogarth message to King Hussein in 1918. Under the Balfour Declaration, the Jews had been given the assurance, in recognition of their services during the war, that they would establish their National Home in Palestine. To her that was the essential point. It was clearly against the will of the Arabs, but they had to submit to it. It was a peace agreement, and such agreements were often unjust to somebody--in this case to the Arabs in Palestine--but it must be remembered that by the same peace agreement the Arabs as a people had received full compensation elsewhere. They were freed from Turkish domination and obtained sovereign rights in five large territories. The only exception was Palestine. A Jewish National Home was to be established there, with all that that meant to the people already settled there. It was obvious to her that, in this respect, the Arabs in Palestine were regarded in a different light from the other peoples referred to in Article 22 of the Covenant. Clearly, it was impossible to create a Jewish National Home in Palestine without infringing many of the rights of the Palestine Arabs, and

for that reason it was pointed out that the Arabs would not be subjected to the Jews, nor the Jews nor the Arabs.

As regards the Hogarth message, Mlle. Dannevig asked whether its contents had been communicated to the interested parties. Had the message been published at that time? How also could the promise that neither people should be subjected to the other be kept when it was postulated in the 1939 White Paper that the Jews were to form a minority of one-third of the Arab population unless the latter agreed to the admission of more Jews into Palestine?

She believed she was voicing the usual interpretation of the promises contained in the Palestine mandate held by ordinary people--not perhaps by jurists or diplomats. She was sure that was the view of the Balfour Declaration taken by the general public.

Mr. MACDONALD said that Mlle. Dannevig had pointed out that the promise made to the Jews in the Balfour Declaration was a return for the part played in the war by the Jews, and he certainly did not seek to minimise the great solemnity and sanctity of a promise made in such circumstances. But Mlle. Dannevig had not quoted the whole of that promise. It was quite true that His Majesty's Government had promised to use their best endeavours to facilitate the establishment of a Jewish National Home in Palestine, but the promise was qualified by the phrase "it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities". When the promise was originally made to the Jews it was, therefore, very deliberately qualified by that assurance regarding the position of the Arab peoples.

Mlle. Dannevig had referred to the message, sent to the Arabs after the Balfour Declaration, which had caused some suspicion and alarm in the Arab world, and had even threatened at one time to interrupt the contribution which a large force of Arabs was making to the Allied cause. The messenger sent to the Arab war leader of the day, King Hussein, therefore, reiterated the promise made to the Jews and described it fully and frankly, but he also placed equal emphasis and importance on the assurance contained in that promise for the Arabs of Palestine; he explained it as meaning that the incoming Jews would enter only to such an extent as would not interfere with the political and economic freedom of the Arab population. It was partly as a

result of the reiterated assurance given to the Arabs themselves, an assurance which was already contained in the Balfour Declaration, that the Arabs continued to make their contribution to the war effort. There was really no difference between the solemnity and sanctity of the promise given to the Jews and that given to the Arabs, in return for which each people played a certain part and took certain risks in the war.

Mr. MacDonald agreed that the Arabs, generally, gained a great deal from the war; they obtained independent kingdoms extending over a large part of Arabia. But the fact of the Arabs in the Hedjaz and Mesopotamia having obtained their independence was no satisfaction at all to the Arabs of Palestine. What the Commission was concerned with here and what it was promised should be safeguarded were the civil and religious rights and the rights and position, not of Arabs outside Palestine, but of the Arabs inside Palestine itself.

In reply to the second point raised by Mlle. Dannevig, it was true that the Hogarth message had not been published until comparatively recently. He had not claimed that the Hogarth message in any way added to or detracted from the Balfour Declaration or the terms of the mandate, both of which were published. The message was merely additional evidence of the fact that the phrases used in the Declaration and in the mandate meant the rights of the Arabs in Palestine in the full political sense of the word. He thought it was because the British authors who joined with others in framing the mandate never questioned that the word "rights" meant political rights that they did not produce this evidence to that effect.

The CHAIRMAN asked whether the Secretary of State for the Colonies took the view that the promise made by Commander Hogarth and that enshrined in the mandate, which was an international instrument, carried equal weight.

Mr. MACDONALD said he did not take that view at all. He would describe the Hogarth message as important evidence of what the British authors of the Balfour Declaration and the British Government, who had had a great share in the framing of the mandate, had had in mind when they used certain words in the Declaration and in

the mandate. It corroborated the case which he had made, but he would not claim that the Hogarth message had anything like the same international status as the mandate. If any conflict arose as between the Hogarth message and the mandate, the mandate, of course, must be accorded greater importance. But his point was that there was no conflict.

The CHAIRMAN asked whether the Hogarth message was prior in date to Sir Henry MacMahon's letter.

Mr. MACDONALD replied that the MacMahon correspondence took place in 1915, the Balfour Declaration was issued in November 1917 and the Hogarth message was sent in January 1918.

Mlle. DANNEVIG said she was still incapable of seeing how the promise that neither people should be subject to the other could be kept, because it was assumed in the White Paper that the Jews should constitute a minority of about one-third of the number of Arabs, unless the Arabs later agreed to a larger volume of immigration.

Mr. MACDONALD agreed that, at the end of five years, the Jews would constitute approximately one-third only of the population of Palestine. That did not necessarily mean that their proportion would remain at that level even if immigration were stopped. Even if they remained a minority he did not think it was impossible to provide that they should not be subject to the Arab majority. There had to be a minority in Palestine; if not of Jews, then of Arabs. If Mlle. Dannevig's argument were sound and the Jews were to form the majority, the Arabs would be subject to the Jews.

The whole problem in Palestine was to find some constitutional arrangement by which the minority would not be rendered subject to the rule of the majority. After the five-year period, the United Kingdom would still be there as the mandatory Power to protect the position of the Jews if necessary. In the Statement of Policy, it was specifically stated that the United Kingdom would not relinquish responsibility for the government of Palestine, unless it could be shown that the constitutional provisions of an independent State did in fact adequately secure the special position in Palestine of the Jewish National Home. However, it was not only the mandatory Power that had to be satisfied on that point; the League of Nations had the last

word and would also, presumably, need to be satisfied before agreeing to the termination of the mandate and the establishment of an independent State. There was, therefore, no question of the Jewish one-third minority being subjected to the Arab majority unless both the United Kingdom Government and the League of Nations abandoned their obligations to the Jews. When the time came to introduce a constitution, Mr. MacDonald did not think it would be impossible to provide for the security of the position of whichever party was in the minority.

Mlle. DANNEVIG understood from the White Paper that officials would be appointed from among the two peoples also in the proportion of one-third Jews and two-thirds Arabs. Of course, it would be practically impossible to maintain absolute equality between the two sections of the population, but could not the Government of the country be so organised as to give the two sections of the population equal weight in the number of their elected representatives? From her childhood she had had the greatest sympathy for the Arabs, having read about their hospitality, their faithfulness to promises, their great sense of honour, and she did not want them to be subjected to the Jews, but she could not see how justice could be done by the system of future political arrangements in Palestine as outlined in the White Paper.

Mr. MACDONALD observed that Mlle. Dannevig's question seemed to relate rather to the details of the constitutional proposals, and might be better dealt with in the detailed discussion which the Chairman had proposed should follow the general discussion.

M. VAN ASBECK drew three general conclusions from the discussion which had taken place at the morning meeting. The first was that the mandate would be maintained. The second was that there would be no change in interpretation. The third was that the emphasis had now been shifted from the Jews to the Arabs. Was it reasonable to draw those three conclusions, particularly that regarding the change of emphasis?

Both the mandate and the Balfour Declaration contained one paramount obligation-- namely, the foundation of a Jewish National Home. That was the primary purpose of the mandate as outlined in its preamble. M. van Asbeck was, therefore, disinclined to agree with the way in which paragraph 2 of

the White Paper presented the "three main obligations", and demurred to the rather subordinate place allotted to the really paramount obligation. The novel feature of the Balfour Declaration of 1917 was that, for the first time, it gave an official promise of British assistance in the realisation of Zionist aspirations, which could be summed up in the phrase that the Jews would cease to be a minority in one part of the world. It was therefore quite natural that British and allied statesmen should, in the first years after the Declaration, have talked about the future Jewish "commonwealth" foreshadowed in the Balfour Declaration.

The mandatory Power therefore had one main obligation--the establishment of the Jewish National Home, one subordinate obligation--protection of the civil and religious rights of the non-Jewish peoples in Palestine, and two auxiliary obligations--to facilitate immigration and colonisation; and the then main obligation, though as such dethroned, was still nowadays a chief obligation, otherwise the subordinate obligation and Article 6 of the mandate were deprived of sense.

Some doubt had arisen as to the meaning of the expression "civil and religious rights" in Article 2 of the mandate. Under the Balfour Declaration and the circumstances in which it was given, that expression could only be interpreted to mean minority rights as laid down in the minority treaties of the nineteenth and twentieth centuries--in other words, a guarantee that a minority community would have the same treatment and security as a majority. Indirect confirmation of that view would be found in a definition which the Permanent Court of International Justice had given of the word "community",⁴ a word used in the Balfour Declaration and in Article 2 of the mandate. That definition read:

"By tradition, which plays so important a part in eastern countries, the 'community' is a group of persons living in a given country or locality, having a race, religion, language and traditions of their own and united by this identity of race, religion, language and traditions in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and

traditions of their race and rendering mutual assistance to each other."

In that definition of a community there was no reference to political rights, but only to personal liberty of worship, opinion, etc.

The words "rights and position" in Article 6 of the mandate surely referred to the economic position, seeing that the French text used the word "situation", which he thought had an economic connotation, and Article 6 itself being economic in character.

For the ordinary reader, as Mlle. Dannevig had said, the meaning of the mandate was clear. The Churchill White Paper of 1922, however, had had an obscuring effect. It was an interpretation--the word "interpretation" was used in the 1922 White Paper itself--placed by His Majesty's Government on the 1917 Declaration, an interpretation adopted because of the hostility felt by the Arab population to the mandate since its practical application. It amounted to a limitation, from the Jewish point of view, in that it circumscribed the facilities offered to Jewish immigration and made them dependent on the economic absorptive capacity of the country.

The Churchill White Paper was the result of consultations between the prospective mandatory Power and the two most important sections of the population of Palestine and, on its basis, the mandate was confirmed by the League of Nations. The Secretary of State for the Colonies, in his preliminary statement, had called it a guidance for the Palestine Administration. But this seemed really a misnomer; in fact, it was the authentic comment on the mandate, which was then drawn up, and had ever since been considered as such by the League of Nations. From 1922 until the Statement of Policy of 1937, the mandate had been operated on the basis of the Churchill White Paper--namely, that the Jewish National Home would increase, but it should increase only in proportion to the economic absorptive capacity of the country. Thus the eventual creation of a Jewish State had not yet been precluded, as Mr. Churchill himself had testified in 1937 before the Royal Commission.

Turning next to the relation of the mandate and the Balfour Declaration to Article 22 of the Covenant, it must not be forgotten that the establishment of the Jewish National

Home was a promise given to world Jewry, and it was in that sense that the mandate must be read. There was a most striking difference between the first and the last articles of the "A" mandate for Palestine and the corresponding articles in the other pertinent documents for countries under A mandates in the Near East. Article 1 of the Palestine mandate referred, not to a national Government working with the advice and assistance of the mandatory Power, but to the mandatory Power itself as having "full powers of legislation and of administration" --a very different situation from that set up in Syria and Iraq.

In regard to Article 28 of the Palestine mandate, he would recall M. Sakenobe's statement in 1937 5/ that the provisions regarding the termination of the Palestine mandate were quite different from those for other A mandates. The reference in Article 28 was hypothetical: "In the event of the termination of the mandate . . ." Thus, the mandate for Palestine bore a very different character from the other A mandates.

The Commission had now been told that the "interpretation" given in the Churchill White Paper of 1922 was to be maintained but that the "emphasis" was to shift from the Jews to the Arabs. What was the reason for that change of emphasis? What was the basis for that shift; what was its significance and what would be its effect? The reason was probably that the Arabs had shown such hostility that it was necessary to pay more attention to their rights and interests in order not to endanger the Jewish National Home itself.

The basis for that change of emphasis was the Hogarth message. As that was sent to King Hussein, it was presumably also known to King Feisal. Possibly that might be why the latter, in 1918 and the beginning of 1919, was rather inclined to accept the Jewish National Home and the Balfour Declaration. But it could not have been known to the British and Allied statesmen, otherwise they would have been much more careful when referring to a Jewish State or Commonwealth; and it was unknown in 1922, or it would naturally have been referred to in the Churchill White Paper. It was unknown in 1930 when, at the seventeenth (extraordinary) session, the whole question of Palestine came up before the Mandates Commission. It was unknown to the Royal Commission which did not mention that important message in its report, although it was accustomed to

examine thoroughly the material available; and it was not mentioned by the accredited representative of the mandatory Power in his explanations to the Commission at its thirty-second (extraordinary) session in 1937, although there had then been ample occasion and necessity for bringing the message fully to light.

What was the meaning of the Hogarth message? The Secretary of State for the Colonies had said that it added nothing to the Balfour Declaration; it only supplemented, he said, several parts of that Declaration which were of peculiar interest to the Arabs. But, in M. van Asbeck's view, it was difficult to avoid the conclusion that, if the Hogarth message meant what had been stated, it undermined the whole of the Balfour Declaration. The accredited representative in his preliminary statement made on the previous day, had stated that, under the Balfour Declaration, the possibility of a Jewish State was not excluded, and that it was regarded as a definite possibility by some of the leading statesmen who were familiar with the intentions of those who drew up the Balfour Declaration.^{6/} Later, however, it was said in that same statement that Commander Hogarth had stated categorically that the Jewish National Home was only to be created in so far as it was "compatible with the freedom of the existing population, both economic and political".^{6/} In M. van Asbeck's opinion, that excluded the possibility of a Jewish State, because it was improbable that the existing Arab population in Palestine would gracefully consent to such a State being set up, seeing that it would curtail the freedom of the Arabs. He was confirmed in his opinion by the further observation in the same statement to the effect that the normal rights of peoples included power to have their voice heard "against a flow of immigration which threatened to relegate them to a position of virtual inferiority in their own country".^{7/} If, under the terms of the Hogarth message, the Arabs had the right to oppose immigration, and, in that respect, retained their previous freedom, that was the very antithesis of the Balfour Declaration and of the mandate which contained a very important obligation to facilitate immigration. M. van Asbeck felt, in fact, that the Balfour Declaration had in view a Jewish, and the Hogarth message an Arab, majority.

Another significant feature in the shifting of emphasis from the Jews to the Arabs-- was the shifting from the primary obligation to the

subordinate, or secondary obligation, as the Royal Commission described it. And it ought to be borne in mind that the effect of that change in emphasis would be irrevocable; there could be no going back. M. van Asbeck submitted, therefore, as his conclusion, that the emphasis had originally been on a Jewish National Home, whose population would be increased in proportion to the economic absorptive capacity of the country. The new emphasis subordinated that increase, after five years, to the final consent of the party most bitterly opposed to the National Home itself. Instead of the economic absorptive capacity being the criterion for immigration, the political factor would then come into operation. That seemed to M. van Asbeck a "new interpretation" and one which conflicted with what Mr. Churchill had said in his 1922 White Paper. It could not really be maintained that there was merely a shifting of "emphasis". In fact, there was a new interpretation, and one based on data unknown to the Mandates Commission and to the Council of the League. It might even, in substance, be said to amount to a preparation for the termination of the mandate, an intimation that the mandate was to be maintained but for only a definite time.

Why only for a definite time? In his preliminary statement, the Secretary of State for the Colonies had said that the Home was now established.⁸ At the last meeting,⁹ however, Mr. MacDonald had referred to the hostility of the Arabs which threatened that Home with destruction. Could it then really be called "established"? The new aim to which attention had been called yesterday--the creation of an independent State in Palestine--meant the termination of the mandate. Mr. MacDonald had said in an earlier reply that some one had to be in the minority, either the Jews or the Arabs, but that there must be no subjection of one people to another. If those statements were considered in connection with the views of the Royal Commission, as expressed on pages 359 *et seq.* of its report, the only possible conclusion to be drawn was that the mandate could not yet be terminated and that British authority must be continued in order to prevent the subjection of one people to another. A parallel could be drawn between Palestine and India, where there were large communities of Moslems and Hindus in continual strife and where British authority, even at the present time, was maintained to a certain degree, endeavouring to prevent the subjection of one

people to another.

M. van Asbeck was sorry to be unable to share the optimism expressed by the Secretary of State for the Colonies. M. van Asbeck was wholly in agreement with him, however, as to the possibility of a solution on federal lines, which could imply a continuation of the necessary British authority. Would it not be advisable to try to pave the way at once for the introduction of a federal constitution, within the boundaries either of Palestine itself or of the neighbouring Near Eastern countries?

Mr. MACDONALD proposed to deal briefly with the points raised by M. van Asbeck.

On the subject of the maintenance of the mandate, there was no doubt at all that the mandate must continue, not only until the United Kingdom Government, but until the League of Nations also, were satisfied that the conditions were such that it could be terminated. His Majesty's Government would not recommend its termination, and the League of Nations would not accept it, unless it was clear that the position of the Jews in Palestine was adequately safeguarded.

The second point concerned the interpretation of the mandate. He had explained at some length that there was no change in the interpretation of the mandate.

The third point raised by M. van Asbeck suggested that there had been a change of emphasis from the Jews to the Arabs. Actually, he had referred only to a change of emphasis from one to another of the tasks set by the mandate. Hitherto, the emphasis had been on the duty to build up the Jewish National Home; His Majesty's Government were now stressing the other obligation in the mandate to protect the rights and position of the Arabs. His point, and that made in the 1939 White Paper, was that the emphasis laid on the position of the Jews in Palestine should be equal to that laid on the position of the Arabs. The whole principle upon which the policy of His Majesty's Government was based was non-subjection of the Jews to the Arabs or of the Arabs to the Jews.

M. van Asbeck had suggested that that change of emphasis had taken place because of the resistance shown by the Arabs. That was not quite the case. His Majesty's

Government had not yielded to force. Given time, they was quite capable of putting down the Arab revolt, which indeed had been substantially quelled before the White Paper was published. British troops and police had very definitely obtained the upper hand in Palestine. But what the United Kingdom Government were concerned with was what lay behind the revolt; what enabled it to maintain itself so long; it was because there was very widespread national sentiment behind it. During the London discussions, it was made perfectly clear that the indefinite continuance of Jewish immigration was as profoundly opposed by, say, Ragheb Bey Nashashibi, the leader of the Defence party, and his colleagues, as it was by Djemal Hussein and those associated with the Mufti's party in Palestine. What had to be taken account of in Palestine was not the military action of the Arab bands, but the tremendous national feeling behind them which constituted their force. Mr. MacDonald felt sure that the Mandates Commission would wish to respect the genuine patriotic sentiment of a whole people, which could, without exaggeration, be said to have made such a long-sustained revolt possible.

The next point was a very important one. M. van Asbeck had said that the Peel Commission had expressed the view that the obligation to facilitate the establishment of a Jewish National Home was primary and the other obligations secondary. M. van Asbeck apparently agreed with that view. Mr. MacDonald must frankly say that he did not accept it. It was true that the United Kingdom Government had expressed their general agreement with the findings of the Peel report, but not with everything which it contained. His Majesty's Government had always held the view that the obligation towards the Jewish people to promote the building of their National Home and the obligation to the Arab people to safeguard their rights and position were of equal importance. That view had been specifically endorsed by the Mandates Commission in 1930 when it stated "the obligations laid down by the mandate in regard to the two sections of the population are of equal weight".¹⁰ He thought that justified the importance attached to His Majesty's Government's obligations towards the Arabs at the present time.

M. van Asbeck had also discussed the meaning of the phrase "civil and religious rights" in the Balfour Declaration and the mandate, and had said that the authors of the former had intended it to have a quite limited significance. Mr.

MacDonald did not think that was true as regarded the authors of the Balfour Declaration, since there was absolutely conclusive evidence to the contrary, for the Hogarth message to the King Hussein interpreted the phrase "civil and religious rights" as meaning that nothing should be done which would impair the political and economic freedom of the Arabs in Palestine. If that were the correct interpretation of "civil and religious rights" in the Balfour Declaration, it was a wide one, and he would point out that the Government which sent the Hogarth message was the same one carrying the authority of Mr. Balfour himself as Foreign Secretary.

M. van Asbeck had suggested that, if such an interpretation were to be given to the expression "civil and religious rights", it was inconsistent of Mr. MacDonald to hold such a view and at the same time attribute to the authors of the Declaration the belief that a Jewish State in Palestine was a possibility. Mr. MacDonald had never denied that the authors of the Declaration held such a belief. But he did not necessarily see any inconsistency between saying that a Jewish State was possible and claiming that the Arabs' political freedom must be secured, since at that time it was--perhaps not likely, but quite possible--that the Arabs themselves would choose to become citizens in a State which was predominantly Jewish. If the negotiations between Dr. Weizmann and the Emir Feisal had continued, the Arabs might eventually have agreed to become part of a Jewish State.

M. van Asbeck then expressed the view that the word "rights" in Article 6 of the mandat simply meant economic rights. Mr. MacDonald did not think so. It seemed to him inconceivable that this mandate, which came within the framework of Article 22 of the Covenant, should wholly deprive the Arabs of Palestine of their normal political rights. Admittedly, the establishment of the Jewish National Home modified those rights, but it could not abolish them entirely. If the Mandates Commission were going to maintain that point of view, it would amount to saying, with all the authority of that body, that the natives of every territory under mandate were guaranteed their political rights except the Arabs of Palestine. That would be inconceivable; it would be a real infringement of the spirit of the whole mandates system.

Further, M. van Asbeck had attached importance to the use of the word "community"

and, quoting an opinion expressed by the Permanent Court of International Justice at The Hague, had sought to establish that the Arab population in Palestine, which was described in the mandate as a community, was something which was entitled only to minority status with the guarantees belonging to minorities. He would point out that what was sauce for the goose was sauce for the gander: the Jewish population in Palestine had also been referred to as a community. M. van Asbeck had attached great importance to the 1922 White Paper, which itself repeatedly referred to the "Jewish community" in Palestine. In its classic account of the Jewish National Home it began by saying "During the last two or three generations, the Jews have re-created in Palestine a community numbering 80,000 . . .", etc. The next sentence began: "This community has its own political organs, etc.". Later, replying to the question as to what was meant by the development of the Jewish National Home in Palestine, the 1922 White Paper said: "It may be answered that it is not the imposition of a Jewish nationality upon the inhabitants of Palestine as a whole, but the further development of the existing Jewish community with the assistance of Jews in other parts of the world in order that it may become a centre . . ." and so on. Throughout the 1922 White Paper, the Jewish population was described as a community. Again, in the mandate itself, the same word was used. Article 15 said: "The right of each community to maintain its own schools for the education of its own members in its own language . . . shall not be denied or impaired". Article 23 read: "The Administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest . . ." Mr. MacDonald did not think that the use of the word "community" could be taken as evidence that the status of the Arabs must be inferior to that of the Jews.

Another point on which M. van Asbeck had laid great stress was the phrase "economic absorptive capacity". He did not for a moment deny the importance of that phrase, but what did it mean? M. van Asbeck had taken it to mean that Jewish immigration should always continue up to the limit of economic absorptive capacity. That was not what the 1922 White Paper said. It said: "This immigration cannot be so great in volume as to exceed whatever may be the economic capacity of the country at the time to absorb new

arrivals". It did not say that immigration had to go right up to the total absorptive capacity. It had always seemed to Mr. MacDonald to mean that, in certain circumstances, immigration might fall below the economic absorptive capacity. Mr. Winston Churchill, the author of the 1922 White Paper, had himself stated in the House of Commons on more than one occasion that it did not mean that immigration was always to attain that limit, but that political and other considerations which were relevant from time to time could be taken into account. Clearly, therefore, on the authority of the author of the 1922 White Paper himself, economic absorptive capacity was not the sole criterion.

M. VAN ASBECK wished to comment shortly on one or two of the points raised in the prolonged discussion in order to clear up the position.

He agreed with the accredited representative that his own definition of the shift in emphasis was possibly too elliptical, and that the facts had been more correctly stated by Mr. MacDonald; but he did not feel that, substantially, there was a very great difference between the two expressions.

As regarded the primary obligation, he was quite aware of the interpretation which, in 1930, the Mandates Commission, following the lead of His Majesty's Government, had put on the internal relations between the obligations enshrined in the mandate. As early as 1937, he had ventured to disagree with the equal weight thus attached to the respective obligations as a reasonable interpretation of the mandate.

As to the Hogarth message, he thought the greatest significance must attach to the Secretary of State's declaration that that message could not have the same legal status as the mandate. He ventured to maintain, in his view, that the Hogarth message did in some respects kill the Balfour Declaration. Political exigencies, of course, sometimes forced Governments to make statements in order to meet a momentary danger, but he would not press that matter. The main point was to have it agreed that the Hogarth message had not the same value as the mandate.

In regard to the term "community", in general M. van Asbeck would like to emphasise that his comments on this subject

and on the term of the community as far as Palestine was concerned, referred to the Balfour Declaration, which preceded the Churchill White Paper. The word was used both in Article 15 of the mandate and elsewhere, in connection with the social and cultural rights and freedom of Jews and Arabs in Palestine under the mandate. Its use in such a connection was quite natural and the argument which he had based on it had not been refuted.

Mr. MACDONALD wished to add a comment on one particular point. He still admitted, as M. van Asbeck had again emphasised, that the mandate was naturally a much more important instrument than the Hogarth message. Nevertheless, the Hogarth message had some importance even in relation to the mandate itself, because, according to the continental system of law at any rate, if there were any doubt about the meaning of phrases in a document, the Court might admit other relevant documents as evidence to be used in solving any problems of interpretation which arose. That was the relation in which the Hogarth message stood to the mandate and to the Balfour Declaration, and Mr. MacDonald felt that, as a piece of evidence for the interpretation of certain expressions in these much more important and weighty documents, it had a definite value.

M. van Asbeck, he thought, was rather belittling the importance of the Hogarth message, even as evidence, when he made the reference to political situations compelling Governments to make statements to avert dangers. What impressed him in the Hogarth message was the fact that it did not bear the marks of having been sent out by a Government concerned to avert an imminent danger. As he had already pointed out, it did not seek to minimise in any way His Majesty's Government's intentions in regard to the Jews returning to Palestine. It stated that "the British Government are determined that no obstacle shall be put in the way of the Jews returning to Palestine", with the proviso that the political and economic freedom of the Arab population should not be interfered with.

It seemed to Mr. MacDonald that that was quite an important and genuine piece of evidence, which it was quite proper, under the continental system of law, to regard as relevant to the consideration of what certain phrases meant in the Balfour Declaration and in the mandate.

The CHAIRMAN had one observation he would like to make in regard to the Hogarth message, of which he himself had never heard until quite recently. The accredited representative would doubtless not be surprised if he stated that he had difficulty in regarding the Hogarth message as a factor in the interpretation of the mandate. The mandate was an international Convention between two parties--the League of Nations, which conferred the mandate, and the mandatory Power, which accepted it--and the League of Nations, when it conferred the mandate, was not aware of the promises made by Commander Hogarth on behalf of the United Kingdom. Although the Mandates Commission had been concerned on occasion with the MacMahon correspondence, there had never been any question of other engagements entered into by the United Kingdom Government towards the Arabs outside the mandate before its institution. The Chairman was therefore of opinion that the Commission could not attach to the Hogarth message as great importance as the accredited representative appeared to do.

With regard to Article 2 of the mandate, under the terms of which "The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure . . . the development of self-governing institutions," he wished to ask whether, in the opinion of the mandatory Government, the obligation to develop self-governing institutions implied an obligation to give the country complete political independence. Could not self-governing institutions be set up within a country which nevertheless remained under control? The Commission had seen an example in Iraq, where self-governing institutions were set up prior to the cessation of the mandate.

In order to enable the Secretary of State to reply to another observation, he would put one more question. According to the preamble of the mandate, "nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine". That proposition clearly related to the Arabs, Christian and Moslem, as did also the stipulation in Article 6, under which the Administration of Palestine was to see that "the rights and position of other sections of the population" were not prejudiced. Those two provisions might seem to indicate the belief of the authors of the mandate that the possibility of the Jews ultimately becoming the majority in Palestine was by no means excluded.

If it had been anticipated as a matter of principle that the Arabs should always remain a majority, would it ever have been thought necessary to provide guarantees of that kind in their favour? It was difficult to imagine the authors of the mandate concerning themselves with the protection of a majority.

It might be replied no doubt that that rule was laid down to enable the mandatory Power during the exercise of the mandate to protect the interests of the Arab majority, which, at that period, was still relatively passive, in relation to an enterprising and energetic Jewish minority.

Mr. MACDONALD did not wish to question the force of what the Chairman had said about the Hogarth message. He was content to leave the matter as it stood after the full discussion which had taken place, in which he had made his views quite clear.

With regard to the second question, whether Article 2, relating to self-governing institutions, was regarded as meaning that the country must one day become independent, he would not have read that meaning into the text. He agreed that it would be possible for self-governing institutions to function in Palestine while the Palestine people as a whole were not citizens of an independent State. Nevertheless, it seemed to His Majesty's Government that, though a country's progress towards independence might be quicker or slower according to the circumstances of each case, the principle of ultimate independence was inherent in the mandates system.

Article 22, paragraph 1, of the Covenant referred to those colonies and territories, which as a consequence of the last war, had ceased to be subject to the State which had formerly governed them, and which were inhabited by peoples who were "not yet able to stand by themselves"; that seemed to him to indicate that those peoples would ultimately become self-governing. It had certainly been one of the principles of His Majesty's Government in the colonies and in the mandated territories of Africa that ultimately, perhaps in some cases centuries hence, the natives would become completely self-governing.

The CHAIRMAN intervened with the remark that it was not a question of centuries in the case under discussion.

Mr. MACDONALD agreed. They were dealing with the question of two peoples: the Jews, who were extremely civilised, and the Arabs, who were a comparatively advanced people, if contrasted with the natives of West Africa, for example. In Mesopotamia and other countries, the Arabs had been regarded as sufficiently advanced to become independent. Therefore, if the movement towards independence were an inherent factor in the administration of other mandates, it must also be inherent in the administration of a mandate which concerned such comparatively developed peoples as the Jews and the Arabs.

With regard to the third suggestion, that the words in the Preamble "civil and religious rights of the non-Jewish communities", and in Article 6 "rights and position of the other sections of the population" must imply the assumption that the Arabs might one day become a minority in Palestine, Mr. MacDonald agreed that the possibility of a Jewish majority was not ruled out. On the other hand, he would not regard those words as implying that the Jewish National Home was necessarily to continue to develop until the Arabs were in a minority. It had to be recognised that the Palestine mandate was absolutely unique. There was no analogy in any other mandate for the proposal to set up in Palestine, a country where there was already a considerable population of Arabs, a national home for another people--the Jews. Accordingly, those words in the preamble and in Article 6 must not be compared with similar words used in treaties concerning minorities already existing in a country. In view of that unparalleled situation, he thought it was perfectly natural that a proviso should be introduced stating that the establishment of the Jewish National Home should not interfere with the civil rights or with the rights and position of the existing population. That was the significance which must be attached to those words; they must not be taken to mean that it was contemplated from the beginning that the Arabs should one day be a minority.

M. VAN ASBECK, on the question of evidence, thought that, if the Hogarth message did throw light on the Balfour Declaration, it was an unhappy light, because much more importance had been attached to the proviso to which reference had been made than to the main object of the message itself. From a general point of view, the only existing comment on the mandate was the Churchill White

Paper, which, while dealing exhaustively with the meaning of the mandate, was completely silent on the subject of the Hogarth message. The latter could not, therefore, it seemed to him, be taken as evidence to elucidate the meaning of the mandate.

Lord HANKEY observed that the possible termination of the mandate was clearly provided for in the mandate itself: Article 8 spoke of certain rights to be restored to the Powers at the expiration of the mandate, and Article 28 began with the words: "In the event of the termination of the mandate".

Mr. MACDONALD agreed with Lord Hankey's observation.

Mlle. DANNEVIG agreed with Mr. MacDonald that the Palestine mandate was different from any other mandate, and thought that the following passage which she had once read accurately described the position:

"In December 1930, there was an Italian proposal to put Palestine under an international regime, since the mandate regime did not suit Palestine, because of the religious dissensions which there took the form of political strife and nationalism. Palestine could never survive as an autonomous State. The country was too small and too important because of its geographical position and its inhabitants were too different as to evolution and material and moral ideals."

The accredited representative had said that the mandatory Power had attempted to introduce self-governing institutions in the country. Mlle. Dannevig could not help thinking that that move had been made too early and was now inclined to regret that she had on one occasion voted in favour of the introduction of self-governing institutions. In view of the special difficulties met with in Palestine it would take a very long time--perhaps fifty or a hundred years instead of the five or ten mentioned in the White Paper--to introduce self-government.

Mr. MACDONALD reiterated that the Palestine mandate was different from all the others; but it was, nevertheless, a mandate and had to embody the spirit and principles of the mandate system. It was not so different that its provisions could contradict those principles. If the Arabs of Palestine, alone among all the populations of territories

under mandate, were to be deprived of normal political rights, it would amount to saying that the Palestine mandate contradicted the spirit of the mandates system. The essential difference was that this mandate sought to establish in a country already inhabited by Arabs a National Home for the Jews. His Majesty's Government was proud of its association with that work but did not believe that it was ever intended to deprive the other sections of the population of their natural rights.

In reply to Mlle. Dannevig's remark about the premature introduction of self-governing institutions, he would remind the Commission that the Arabs and Jews in Palestine were fairly advanced peoples. It remained true, however, that, in twenty years, no progress whatever had been made with the establishment of even the most modest form of central self-government, apart from local government bodies. Palestine was, in fact, behind some other parts of the world where the people were actually more backward. It must not be overlooked, moreover, that this was the twentieth century and that the political aspirations of the twentieth century had invaded the Arab world; to postpone indefinitely the grant of even the most modest self-governing institutions to the Jewish and Arab peoples in Palestine would be tantamount to sitting on the safety valve, and soon there would be an explosion. It was impossible to set one's face against the whole spirit of the twentieth century, which in many countries was a steady movement towards self-government.

Notes

1/ Document C.163.M.96.1939.VI (Cmd.6019), Annex 3.

2/ See Minutes of the Thirty-fourth Session of the Commission, page 63.

3/ See Minutes of the Thirty-fourth Session of the Commission, page 63.

4/ See advisory opinion of July 31st, 1930, on the question of the Greco-Bulgarian communities (Series B. No. 17), page 21.

5/ See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 194.

6/ See page 97.

7/ See page 100.

8/ See page 98.

9/ See page 110.

10/ See Minutes of the Seventeenth (Extraordinary) Session
of the Commission, page 145.
