

LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

MINUTES
OF THE
THIRTY-FOURTH SESSION

Held at Geneva from June 8th to 23rd,
1938

including the
REPORT OF THE COMMISSION TO THE COUNCIL

THIRD MEETING.

Held on Thursday, June 9th, 1938, at 10 a.m.

Palestine: Examination of the Annual Report for 1937.

Sir John Shuckburgh, K.C.M.G., C.B., Deputy Under-Secretary of State for the Colonies, Mr. S. Moody, O.B.E., Deputy Chief Secretary to the Government of Palestine, and Mr. A. S. Kirkbride, O.B.E., M.C., District Commissioner, Galilee and Acre District, accredited representatives of the mandatory Power, came to the table of the Commission.

WELCOME TO THE ACCREDITED REPRESENTATIVES.

The CHAIRMAN welcomed the accredited representatives in the name of the Commission. He recalled that Sir John Shuckburgh had already appeared before the Commission as accredited representative at its eleventh session, in 1927. Mr. Moody had appeared in 1932 and 1935 and Mr. Kirkbride in 1936. The Commission was grateful to the mandatory Power for sending these distinguished officials to represent it.

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

Sir John SHUCKBURGH made the following statement:

May I say, in the first instance, how much pleasure it affords me, after an interval of some eleven years, to appear once more before the Permanent Mandates Commission at Geneva.

I hardly think it necessary on the present occasion to make a preliminary statement of such length, or in such detail, as has been made by accredited representatives on some previous occasions. The reason will be clear to you. As you will not need to be reminded, the whole ground was covered, the question of the position of Palestine and of the policy of the mandatory Government was examined with great thoroughness, at the extraordinary session of last July and August, which the former Secretary of State for the Colonies, Mr. Ormsby-Gore, attended as accredited representative of the mandatory Government. Following upon your report on that session and upon the subsequent discussion and resolution by the Council of the League of Nations, the mandatory Government found itself free to proceed with preliminary investigations with a view to working out a detailed scheme of partition. A technical Commission has been appointed for this purpose and is at present in Palestine conducting its enquiry. That means that, so far as major questions of policy are concerned, matters are now *sub judice*, and their further discussion at the present stage would perhaps be out of place; meanwhile, owing to the unfavourable conditions of public security and of finance (to which I shall refer in a moment), there have, during the past eighteen months, been few important changes in the field of ordinary administration.

I should like at this point to say a word about the situation as it was left last summer and the action which has since been taken by the mandatory Government. I am anxious in this connection to deal with two criticisms, of which a good deal has been heard. The first is that there has been undue delay on the part of the mandatory Government and the second that its policy has been lacking in definiteness. I would venture to put to you that neither suggestion is justified. Let us recall the sequence of events. It was not until the middle of September 1937 that the Council of the League of Nations had pronounced its *nihil obstat*, without which the further examination of the

possibilities of partition could not be proceeded with. In that same month the campaign of terrorism, which had unfortunately revived in Palestine, culminated in the assassination, in circumstances of a peculiarly dastardly character, of a British District Commissioner and his police escort at Nazareth. The Government had to act firmly. Prompt use was made of the emergency powers conferred by the Defence Order-in-Council. The Arab Higher Committee, which was regarded as morally responsible for the outrages, was outlawed. Those of its members on whom hands could be laid were arrested and deported. The Mufti of Jerusalem was deprived of the special offices from which he had derived his outstanding and dangerous power. All the forces at the Government's command were devoted to the task of suppressing disorder. It was clearly no time for a Commission of Enquiry to begin its investigations. By the early spring, although the disorders had by no means ceased, it appeared that the position had become sufficiently stabilised to justify the appointment of the Commission; and a Commission was accordingly appointed, though its departure from England was delayed for a few weeks to enable the new High Commissioner first to take over the administration. The Commission finally left London for Jerusalem on April 21st, 1938. As I have already mentioned, it is now engaged upon its investigations.

Meanwhile, I should not like it to be supposed that time had been altogether lost. On the contrary, certain essential enquiries--essential, that is, as preliminaries to the work of the Commission--had already been set on foot in Palestine. In particular, important hydrographic surveys, necessarily a task of many months, had been begun in the southern district and the Jordan valley, with a view to collecting evidence as to the possibilities of irrigation and development in these regions.

That is what I have to say on the charge of dilatoriness. There remains the other criticism --that the policy of the mandatory Government is lacking in definiteness. I venture to think that this criticism implies a misunderstanding of the present position. There must necessarily be uncertainty as to the shape and form of partition, and indeed as to its practical adoption as a solution, until we know for certain that the Commission has found it possible to recommend a scheme of partition that can be regarded as equitable and practicable. Equitable and practicable--those are the words used in the despatch of December 23rd, 1937, of which

copies have been circulated to you. But on the question of principle, there is no uncertainty or indefiniteness. The view that partition offers, in principle, the best and most hopeful solution of the Palestine deadlock remains, as it has already been declared, the definite opinion of the mandatory Government. It was the opinion expressed by the mandatory Government when it issued its Statement of Policy of July 1937. It has been reaffirmed more recently in the British House of Commons, and you will accordingly realise that there has been no modification of policy in this respect.

The decision that the investigation into the possibilities of partition should be proceeded with has affected one important field of administration in Palestine. I mean the control of immigration. I do not propose to deal at any length with this subject in the course of my preliminary statement. There will be opportunities for its discussion in connection with the relevant sections of the report. Here, I will only say that the present system of control is admittedly arbitrary and temporary; but the mandatory Government does not regard it as in any way inconsistent with its obligations under the mandate. I would emphasise the word "temporary". His Majesty's Government in the United Kingdom has made it clear that it is its intention, once the boundaries of the various areas under an equitable and practicable scheme of partition have been defined and so long as the existing mandate continues in operation, that the entry of Jewish immigrants shall be regulated, so far as concerns the non-Arab areas, by the principle of economic absorptive capacity.

I turn now to the question of administration in general. The principal task of the Palestine Government, absorbing much of its energies and much of its financial resources, has been that of maintaining public security and waging incessant war--I am afraid that the word "war" is scarcely an exaggerated description--against terrorism, lawlessness and intimidation. The unhappy record of 1937 is set out in the annual report. During the first five months of the present year, as a result of the sustained efforts of the Administration and of action by the military and police forces, the state of public security in the Jerusalem and southern districts has, on the whole, shown a marked improvement. But conditions are still disturbed in the Galilee and Haifa--Samaria districts, where the nature of the country is peculiarly favourable to guerilla tactics.

The armed gangs have on several occasions been successfully engaged by troops and police, and a considerable number of casualties have been inflicted upon them. In general, terrorist activities have taken the form of isolated acts of violence and attacks by armed bands; and, latterly, attacks have been concentrated against Arabs who are believed to be supporting the Government or giving information against the gangs.

Every effort has been made to assist villagers who have not taken part in anti-Government activity by affording them adequate protection. Arab supernumerary police have been recruited and mobile columns of troops and police are constantly in operation in the areas affected. Additional measures have been initiated to prevent arms smuggling and illegal entry of undesirable characters from neighbouring countries. The northern frontier is now constantly patrolled and a barbed-wire fence, covering the whole of the northern and part of the north-eastern frontier, is in the course of erection.

Among other measures under active consideration is the formation of a force of rural mounted police.

The forces of the Crown engaged in combating terrorism have been subjected to a constant stream of vilification in newspaper articles and pamphlets widely circulated outside Palestine. For the most part, the charges brought against the troops and police are sufficiently discredited by their own obvious extravagance. I would only quote as an instance the "torn Koran", which is a regular feature of such propaganda and is simply manufactured evidence intended to provoke religious feeling. Police searches of villages are in charge of British police-officers and are conducted according to prescribed regulations. Military searches are conducted according to a similarly regulated routine. In all cases of complaint, enquiries are instituted promptly by the civil or military authorities under a senior British officer. I can assure you that the result of such enquiries has been to confirm that troops and police, under great provocation, are behaving in accordance with their traditions and with a tolerance and forbearance which, I am glad to say, are generously admitted by a large section of the public.

Meanwhile, the disturbed state of the country and the inevitable political uncertainty have been reflected in a

distinct reduction of economic activity. Government revenues have been seriously affected--at the very moment when heavy additional expenditure is being incurred on special security measures. The large surpluses of recent years have been transformed into deficits and the territory's surplus balance, which stood at £6,200,000 at April 1st, 1936, had, by the same date in the present year, been reduced to £2,300,000. I should perhaps explain that this decrease is not quite so great as it looks. Part of it is due to the removal from the balance-sheet, under a new accounting procedure, of certain items (particularly advances in anticipation of the proposed "guaranteed loan") which cannot properly be regarded as assets.

Nevertheless, the financial situation can only be regarded as serious. The accumulated resources of Palestine are in process of rapid exhaustion. The position is receiving the most careful consideration by the mandatory Government. It has been agreed, subject to Parliamentary approval, that Palestine should be entirely relieved, both this year and next, from all contribution towards the cost of the military forces and Royal Air Force stationed in that country for purposes of internal security. The amount paid under this head during the year ended March 31st, 1937, was no less than £1,297,000; and although the liability during the current year is not expected to be quite so large, you will appreciate that the contribution to be made by the taxpayers of the United Kingdom towards the expenses of Palestine will be a very substantial one. I hope that I may be pardoned if I lay some emphasis on this point. You will realise, I am sure, that the demands upon the British taxpayers in other directions are not exactly negligible.

As you are aware, Mr. Chairman, there has been a change of High Commissioner during the past year. Towards the end of 1937, Sir Arthur Wauchope found himself obliged, on grounds of health, to ask that he might be relieved of his appointment. This is not the time for passing his six-year administration under review or for attempting any general estimate of his eminent career. But there is just one point that I should like to make. Throughout his service in Palestine, Sir Arthur Wauchope devoted himself with single-minded sincerity to the task of appeasement and conciliation of the various elements in the country. The unhappy events of the last two years must have come as a special disappointment to one who had worked so hard for the interests of Arabs and Jews alike and for the growth of

a spirit of co-operation between the two races. These events will not, I am confident, efface the memory of his very great personal contribution to the upbuilding of that better and happier Palestine which we all hope to see when the present storms have passed.

Sir Arthur has been succeeded as High Commissioner by Sir Harold MacMichael, formerly Governor of Tanganyika Territory. Sir Harold is no stranger to this Commission. His career is well known to you, as are the outstanding abilities and the distinguished record that qualify him so admirably for a post which must always be one of the most difficult of all the appointments in the gift of the British Crown.

I need not say that I shall be most ready to answer to the best of my ability any questions which you may wish to put to me arising out of this preliminary statement or out of the annual report for 1937; but I would venture to suggest that it might be most convenient that replies on details of the general administration should be left to my two colleagues--Mr. Moody and Mr. Kirkbride. Neither of these gentlemen needs any introduction to the Permanent Mandates Commission. Mr. Moody is Deputy Chief Secretary in Palestine, while Mr. Kirkbride (who now holds the very difficult and responsible post of District Commissioner at Nazareth) was till quite recently assistant to the British Resident in Trans-Jordan.

There is just one further word that I should like to say in conclusion. Will you let me assure you, Sir, speaking in the name of His Majesty's Government in the United Kingdom, of the satisfaction and encouragement that it derived from the very generous tribute paid by the Permanent Mandates Commission in its report last summer to the conduct and record of the mandatory Power. The task of administering the Palestine mandate, a task that is never easy and often thankless, is sensibly lightened by the knowledge that the mandatory Power enjoys the support and sympathy of the Permanent Mandates Commission.

TRIBUTE TO SIR ARTHUR WAUCHOPE.

The CHAIRMAN thanked the accredited representative for his interesting statement. He suggested that the statement should not be discussed as a whole, but that the various points on which members of the Commission might wish to

comment should be raised in their proper order as and when the successive chapters of the annual report were examined.

Divergent opinions had been expressed as to the lines along which Sir Arthur Wauchope had conducted the administration of Palestine. It could not be otherwise in an atmosphere so deeply divided by clashes of interests and so charged with violently opposed feelings. But every impartial observer could not but admire the *sang-froid* Sir Arthur had always displayed in the most trying circumstances, his indefatigable perseverance in pursuing a policy of conciliation, and the scrupulous impartiality of his every action. The Chairman asked Sir John Shuckburgh to convey the Commission's tribute to Sir Arthur Wauchope.

**Palestine and Trans-Jordan: Form of Annual Report:
Statistical Information regarding Territories under Mandate.**

The CHAIRMAN said that the Commission was grateful to the mandatory Power for having inserted in the annual report various important documents, including the Statement of Policy published in July 1937, and a number of regulations issued under the Palestine (Defence) Order-in-Council, 1937 (pages 41 to 49 of the report).

In pursuance of a request made during the thirty-second session of the Commission,¹/ the annual report now included statistical tables relating to trade, public finance and population in Palestine and Trans-Jordan (pages 215, 244 and 375). The Commission was grateful to the mandatory Power for having added those tables, which would undoubtedly prove of great value.

The statistical table on page 375, dealing with Trans-Jordan, covered the years 1932 to 1937. As the statistical table given on page 6 of document C.565.M.272.1933.VI only went as far as 1930 (calendar year) and 1930/31 (financial year), it would be useful if the next report might contain some information relating to 1931 (calendar year) and 1931/32 (financial year).

Sir John SHUCKBURGH took note of this request.

**Palestine: Question of the Application of the Mandate
Charter: Jewish Immigration: Plan of Partition of the**

**Territory: Jewish National Home: Possibility of
Collaboration between Arabs and Jews: Carrying-out of
Various Recommendations of the Royal Commission:
Development of Self-governing Institutions.**

The CHAIRMAN wished to give the accredited representative an opportunity of expressing his views on a matter which the Chairman himself considered to be of paramount importance. It was desirable, if possible, to remove the impression obtained from a perusal of the report--and the accredited representative's preliminary statement had not contributed towards removing it--that there was a considerable divergence between the present *de facto* situation and the *de jure* situation in Palestine.

The *de jure* situation could be summed up in a word--namely, that the mandate was still in force. It should remain in force until such time as it was replaced by another mandate, or a new, extra-mandatory status was conferred on Palestine.

It was clear, however, that the mandate had ceased to operate normally: the present state of affairs was characterised by actions or abstentions from action that departed from the spirit in which the mandate had always been interpreted, ignored some of its definite provisions, or carried it out by methods differing from those hitherto employed.

The most striking example was furnished by the new immigration regulations. Since August 1937, immigration had ceased to be graduated in accordance with the principle of economic absorptive capacity, a principle converted by a Council decision into a rule to which the mandatory Power must conform. Mr. Ormsby-Gore had told the Mandates Commission 2/ and Mr. Eden 3/ had told the Council that the departure from this rule, owing to unusual circumstances, was to be quite provisional. Nevertheless, the principle of absorptive capacity had been suspended beyond the date fixed, this time for an indefinite period. Hence, authorised Jewish immigration was reduced to very small proportions, and it was not too much to say that Articles 2 and 6 of the mandate were no longer applied.

The Chairman would be glad if the accredited representative would be good enough to describe clearly the present state of affairs from the point of view of the mandate and its

obligations.

Sir John SHUCKBURGH said that the Royal Commission had contemplated a transitional period between the adoption of its proposals and the end of the mandate--that was to say, the creation of two separate States. It had not, however, made provision for the interval that must necessarily elapse between the publication of its report and the adoption in a concrete form of a scheme of partition.

It followed that there were two transitional periods, of which the first, the period existing at the moment, would last until the definite adoption of a concrete scheme of partition, while the second would run thereafter until the end of the mandate and the actual creation of the partition States.

The Chairman had rightly observed that, of the various issues affected by the transitional character of the present situation, immigration was of outstanding importance. As soon as the second transitional period began--after the adoption of a scheme, but before the termination of the mandate--immigration into the non-Arab areas would revert to the principle of "economic absorptive capacity", the principle which had prevailed until 1937. When the third stage was reached--that was to say, when the mandate had ceased and the new status of Palestine had taken concrete shape--control of immigration would cease altogether in the Jewish areas, except in so far as the Jews themselves chose to impose restrictions. They would, at all events, be entirely free in the matter.

This went far to meet the criticism that, under the programme proposed, the Jews would lose rather than gain during the transitional period, seeing that the principle of "economic absorptive capacity" would apply only to a limited area and not, as heretofore, to the whole country. The answer was that, in the final stage, there would be a definite gain from the Jewish standpoint, since they would be released from all form of control or restriction in respect of the area which would then become the Jewish State.

The CHAIRMAN noted that partition was the solution chosen by the mandatory Power. There could be no further doubt, therefore, on that score.

It appeared from the accredited representative's statement, on the other hand, that a transitional period was beginning in Palestine between that in which the mandate was applied in its entirety and the transitional period envisaged by the Royal Commission. The mandate was still in force, but it was not being applied on the same lines as since 1922.

Such a situation was bound to lead to confusion and to pave the way for arbitrary acts. It would be for the Mandates Commission to decide whether circumstances rendered it inevitable.

Sir John SHUCKBURGH said that he was far from desiring to raise controversial issues, of which there were far too many already. He could not, however, entirely accept the view that there was at present only a partial application of the mandate itself. It would be more correct to say that the policy of the mandatory Power under the mandate, as approved by the Commission and the Council, had, in consequence of altered circumstances, undergone a temporary modification. The principle of "economic absorptive capacity" furnished an illustration of that situation: it was not a principle enshrined in the mandate itself, but a principle which had formed part of the mandatory Power's policy, and which now, owing to certain events, could not be fully applied.

M. PALACIOS recalled that the "Statement of Policy" of the United Kingdom Government, published in July 1937, approved, in principle, the proposals contained in the Royal Commission's report, and asked the Mandates Commission, and in due course the Council, for "freedom to give effect to a scheme of partition to which they earnestly hoped that it might be possible to secure an effective measure of consent on the part of the communities concerned". The representative of the mandatory Power was now expressing himself as if his Government had definitely accepted partition, and as if the moment had already come to realise it. Command Paper No. 5634, entitled "Policy in Palestine" and presented to Parliament by the Secretary of State in January 1938, contained the terms of reference of the technical commission sent to Jerusalem, which was usually referred to as the Partition Commission. Had the required measure of consent been secured? Had the hope of securing that consent become greater in the last twelve months, or less? In short, was there anything, apart from

Press reports and private information, which justified the mandatory Power in hoping that it would secure from the two parties concerned--namely, from the Arabs and the Jews--effective collaboration in support of the policy proclaimed?

Sir John SHUCKBURGH feared that he could not give a very encouraging answer. Official Jewry, at a Congress held in Zurich last year, had expressed its willingness to explore the possibilities of partition. The Arabs, on the contrary, had rejected the proposal outright. The new Commission was at present collecting evidence in Palestine; but so far only Jews had come forward; the Arabs had abstained, and there were few signs that their attitude of abstention was likely to be modified.

M. VAN ASBECK had listened with close attention to the Chairman's question and the accredited representative's reply. The point was of paramount importance, and he was not yet entirely satisfied in his own mind by what had been said. It had to be expected that two transitional periods would elapse between 1936 and the full application of a new status of Palestine and Trans-Jordan. It might perhaps obviate confusion if the present transitional period were styled the "interim period" (a term which, indeed, was used by the United Kingdom Government in its despatch of March 10th, 1938), and if the term "transitional" were reserved for the period contemplated by the Royal Commission between the definite adoption of a concrete scheme and the end of the present mandate.

It was essential to obtain as much clarity as possible in respect of the policy to be followed during the interim period. That period, which had already run for some months, might eventually prove extremely long, as the Partition Commission still had to complete its work and submit a report, after which the mandatory Power, and in due course the Council assisted by the Mandates Commission, would have to reach a decision. The Chairman had already observed that it was a period of uncertainty as to the execution of the mandatory Power's obligations under the mandate, which was still in force. To make the point clear, M. van Asbeck would give one or two examples.

The Royal Commission had criticised the application in the past of the principle of close settlement of the Jews on the land; it had submitted certain proposals in its report.

Were those proposals now being applied? Again, the Royal Commission had submitted criticisms and proposals in relation to local autonomy. Was it the mandatory Power's intention to implement those proposals as far as possible during the present interim period? There was the question of education for Arabs : the Royal Commission had declared that, in its view, expenditure on education should take precedence over all other expenditure except that on public security. Was that principle to be put into force during the present lengthy interim period? Or, on the contrary, were all these matters to be left in suspense? The grave danger involved was that of holding up the development of the country, and M. van Asbeck therefore desired to ask whether the mandatory Power intended to proceed with such reforms in spite of the present uncertainties, or not?

Sir John SHUCKBURGH agreed that the point raised was one of great importance. He feared that his reply would of necessity lack precision. M. van Asbeck had spoken of a holding-up of the development of Palestine as a grave danger. He agreed. The mandatory Power deplored the present situation, and, as he need hardly say, had no desire to prolong the period of uncertainty and transition a moment longer than was necessary. But so long as such conditions continued to prevail, a certain slowing-up in various directions was inevitable.

In the matter of education, the Royal Commission's proposals had been carefully examined; and last year the budget included a number of credits designed to give effect to some of those proposals. This year, however, funds had proved too limited to allow the policy of expansion to continue. The process was in the nature of a vicious circle. Disturbances occurred, and available funds had to be diverted to defence purposes. In consequence, social services suffered, and further discontent ensued. The mandatory Power was doing its best to break the circle; but he feared that, in present circumstances, it could do no more. He asked the Chairman to allow Mr. Moody to give a more detailed reply on the question of land settlement.

Mr. MOODY reminded M. van Asbeck that the proposals to which he had referred appeared in Part II of the Royal Commission's report and were there described as palliatives to be put into operation if the mandate were continued. Partition, on the other hand, appeared in Part III of the report and was put forward as a radical solution of the

Palestine problem. Nevertheless, the mandatory Power had, wherever practicable, endeavoured, as a matter of good administration, to give effect to the palliative proposals of the Royal Commission. The annual report for 1937, which the Commission would shortly examine, dealt with all the points mentioned by M. van Asbeck. The United Kingdom Government's despatch of March 10th, 1938 (see Annex 3), dealt only with the question of immigration. As regards closer settlement, the annual report showed that Jews were still buying land and that the administration was still prospecting for water in the Jordan valley and in the Beersheba sub-district. It was also stated in the annual report that the mandatory Power accepted the Royal Commission's recommendations regarding the expansion of Arab education, and had done all that the financial position allowed to give effect to them.

M. VAN ASBECK wished to make it clear that he had had no intention of criticising the mandatory Power, but had merely desired to obtain a clear picture of the situation.

Sir John SHUCKBURGH assured M. van Asbeck that he had taken the latter's remarks in that light.

M. VAN ASBECK added that, if certain proposals were described in the Royal Commission's report as mere "palliatives", that term had to be viewed in the light of partition and the deadlock in the country. Those proposals nevertheless remained constituent elements of a good policy in Palestine; and he was glad to have the assurance that they were being implemented in so far as circumstances permitted.

The accredited representative had rightly observed that the very existence of an interim period was the consequence of a deadlock; that deadlock revealed itself as between Jews and Arabs, on the one hand, and between certain sections of the Arab population and the Administration, on the other hand. There were, however, a number of measures and reforms which applied exclusively to the Arabs or exclusively to the Jews, in relation to which the deadlock therefore seemed immaterial. He would be glad, therefore, in view of the probable great length of the interim period, to have an assurance that, in those directions, development would continue to the utmost possible extent. He had in mind all the points of good policy (changes in administrative methods, etc.) recommended by the Royal Commission.

Sir John SHUCKBURGH would put it that the deadlock to which reference had been made had been the direct cause of the change of policy which the mandatory Power had had to contemplate, and that that change of policy had in its turn necessarily brought about the existence of an interim period. Every effort would be made during that interim period --which, however, the Commission must remember would be a period of severe financial stringency--to carry through all practicable measures calculated to improve the conditions either of Arabs or of Jews.

Mlle. DANNEVIG thought that, since a large part of the Arab population was hostile to the policy of terrorism, some of them must be prepared to collaborate with the Government. She asked whether the numbers of the moderates were increasing, and what proportion of the total Arab population they represented.

In the second place, she asked whether any steps had been taken by the Administration to influence public opinion and to mitigate antagonism.

Sir John SHUCKBURGH recalled a saying of the late Lord Morley that, in times of excitement, "moderates are always at a discount". The situation in Palestine was unhappily one in which extremists held the limelight and moderates had little influence.

Mr. KIRKBRIDE explained that there were a certain number of moderate Arabs who were prepared to co-operate to secure good administration, although this did not necessarily mean that they agreed with the mandatory Power's policy. It was, however, impossible to form an estimate of their numbers, as they were naturally disinclined to come into the open.

Mr. MOODY, replying to Mlle. Dannevig's second question, said that the Administration accepted the Royal Commission's view that a deadlock had arisen. They would be glad to influence opinion in favour of a peaceful solution; but the circumstances were such that it was very doubtful whether any direct action of the kind contemplated by Mlle. Dannevig in schools or elsewhere would yield any favourable results. The main task of the Administration at present was that of suppressing disturbances: as Sir John Shuckburgh had rightly observed, the Administration was at war with lawlessness.

The whole object of partition was of course to resolve the deadlock; and it was for that reason that the Partition Commission was now in Palestine. Therein lay the best hope of attaining the end desired by Mlle. Dannevig.

The CHAIRMAN thought that the general situation had now been made clear. He invited the Commission to examine the annual report for 1937 in detail.

M. PALACIOS pointed out that, as usual, the question of the "Jewish National Home" raised the whole problem of the mandate and of what was to be done, not only in order to create the National Home, but also to ensure the functioning of self-governing institutions and the safeguarding of the civil and religious rights of all the inhabitants of Palestine. On other occasions, M. Palacios generally submitted questions relating to the practical measures taken by the Administration to reconcile highly conflicting aims. But it seemed futile, on the present occasion, to enquire as to the results obtained by means of collaboration between Arabs and Jews. Numerous efforts had been made to solve a problem which now no longer appeared merely difficult, but virtually insoluble. Would it be true to say that the endeavours made to secure a modification of the Arab attitude by persuasion and peaceful methods had been abandoned entirely?

Sir John SHUCKBURGH replied that everything possible had been done to bring the Arabs into line and to induce them to co-operate. If nothing had been attempted in the nature of a "Round Table Conference" with a view to resolving the differences between Arabs and Jews, the reason was that at no time were the circumstances such as to give any ground for hope that such a conference had any chance of success.

M. PALACIOS said that disregard of the last part of Article 2 of the mandate was not a new factor. In spite of the mandatory Power's efforts, nowhere had demands in the matter of self-government been satisfied. For that reason, it seemed to him useless, in the present circumstances, to ask whether those efforts had been renewed. He considered that the temporary suspension of Article 2 had never been more fully justified than at present, in view of the impossibility of applying it, provided, however, that the suspension was applied uniformly to all the parties to the conflict.

Sir John SHUCKBURGH added that failure has not been due to lack of efforts. As early as 1922, detailed plans for setting up a legislative council had been drawn up and the procedure for elections laid down. That effort had broken down, owing to the action of the Arabs in boycotting the elections. As recently as 1935, again a further proposal to create a legislative council had been advanced. On that occasion, the main opposition came from other quarters; but in any case, the Government had felt itself compelled to drop the proposal.

Count DE PENHA GARCIA paid a tribute to the Chairman's admirable conduct of the debate, thanks to which the true nature of the problem was gradually emerging.

In the matter of the Jewish National Home, the position was that the scheme for partition aimed at the modification of the existing geographical limits, with a view to implementing Article 2 of the mandate and overcoming the difficulties which had hitherto opposed its execution. It had been found impossible to set up a representative organisation or administration in which Jews and Arabs would work in common. Hence the mandatory Power had proposed to restrict the Jewish National Home to one part of Palestine which would be made an independent State and to create an Arab State composed of the rest of Palestine together with Trans-Jordan. Until that proposal was put into effect, the Jewish National Home would be very restricted from the point of view of immigration, and, when it took concrete shape, it would be found to be geographically limited.

Count de Penha Garcia then pointed out that the great disadvantage of the present difficult situation was that the United Kingdom Government was now proposing a plan which it regarded as the best and most hopeful solution, but for which all the preparatory work had still to be done, and the essential data to be collected. The longer that preparatory period lasted, the more difficult it would prove to apply the solution. There could be no doubt that, had some steps been taken in advance--for example, had Jews been allowed to settle in certain districts only--the present position would be far less difficult.

Mlle. DANNEVIG observed that there were moderates on both sides. There were some Jews, such as Dr. Magnes, the

President of the Jewish University, who were prepared to come to an arrangement with the Arabs and to continue the existing mandate. Had Dr. Magnes many followers, and what was his position in the eyes of the Jews and of the Administration?

Sir John SHUCKBURGH explained that there were three phases of Jewish opinion of which account had to be taken--namely: (1) that of the main body of Zionists represented by the official organisation with which the Administration dealt--that was to say, the Jewish Agency; (2) that of the New Zionists, who might be described as an "extreme" element, putting the Jewish claim at its highest; and (3) that of a comparatively small section, of whom Dr. Magnes was a distinguished spokesman, who were prepared to come to a settlement with the Arabs on terms which certainly would not be acceptable to the two other bodies. He desired to speak of this section, and of Dr. Magnes personally, with the highest respect; but he feared that their influence was insufficient to provide a decisive factor in the solution of the problem.

M. PALACIOS understood the Arab attitude to be one, not of opposition to the creation of a Jewish National Home as such, but to the notion, which might quite soon be given concrete form, of setting up a Jewish State, either throughout Palestine or in a part of the country. The Arabs were opposed, in the latter eventuality, to any transfer of their territories, and, in the former eventuality, they feared that intensive immigration would, after a few years, reduce them to a minority on their own soil.

Sir John SHUCKBURGH agreed that what the Arabs feared was Jewish domination. But their claim went rather further than M. Palacios had suggested. They desired to "crystallise" the existing position. There were already 400,000 Jews in the country. The Arabs held that this number should not be further increased, and that Jewish immigration should cease. In exchange, they were prepared to promise fair treatment for the Jewish minority--a considerable one--within an Arab State. The Jews met this claim with an absolute refusal. They regarded it as tantamount to setting up what had been called a "permanent Ghetto" in Palestine. The consent of the Arabs might no doubt be obtainable to some solution on the lines of a fixed proportion--say 40%--of Jews in an Arab State; but it was certain that such a

solution would never be acceptable to the great majority of Zionists.

MUNICIPAL AND LOCAL COUNCILS.

M. PALACIOS noted (page 56, paragraph 14 of the annual report) that the municipal corporations had, in general, displayed a fair sense of financial responsibility, and that the marked improvement which had been observed in the working of the municipalities since the enactment of the Municipal Corporations Ordinance, 1934, still continued.

He also noted (page 55, paragraph 12) the statement that, as a result of the deportation of the Arab Mayor of Jerusalem, together with other members of the Arab Higher Committee, the Jewish Deputy Mayor had been appointed by the High Commissioner to perform the duties assigned to the Mayor. Could the accredited representative state whether this Deputy Mayor still held his post, and whether the appointment had given rise to any difficulty?

Mr. MOODY explained that, in accordance with established precedent, the Jewish Deputy Mayor had taken office as Acting Mayor, and that so far the municipal work had continued tolerably well. The former Mayor was an Arab, and was now in the Seychelles. There was a second Deputy Mayor, who was also an Arab. His own view was that the present situation would not long persist, as certain difficulties had arisen quite recently.

Mr. Moody added that the numbers of Jewish and Arab municipal voters in Jerusalem were roughly equal; but that did not mean that the numbers of the Jewish and Arab populations were equal.

Count DE PENHA GARCIA was glad to observe that autonomous administration was making progress. Was that progress more marked where the Arabs, or where the Jews, predominated? Had the disturbances affected the working of the local Arab Councils and other local administrations?

Mr. MOODY said that the Haifa municipality, which was a mixed one, had ceased to function, as had those of Ramallah and Hebron, which were both Arab. The disturbances had therefore had the effect of suspending the work of certain local bodies.

He added that all the municipal budgets for 1938/39, except those for Jaffa and Tel Aviv, had been approved before April 1st (the beginning of the financial year); that was an encouraging sign.

SCHEME FOR THE TRAINING OF OFFICIALS.

Mlle. DANNEVIG drew attention to paragraph 9 on page 5 of the report referring to the training of officers for service in Palestine, and asked whether any decision had been reached concerning that scheme.

Sir John SHUCKBURGH replied that unfortunately the Administration had been too preoccupied with other urgent issues to make progress in the matter.

QUESTION OF THE LOYALTY OF JEWISH AND ARAB OFFICIALS.

Mlle. DANNEVIG asked whether any officials had, to any appreciable extent, adopted a partisan attitude, and whether they were punished when they did. She had in mind various cases concerning Arab officials in the judiciary, which had been reported in 1936.

Sir John SHUCKBURGH said that a few Arab officials had been dismissed on these grounds, and there had been a number of replacements of municipal officials and of Sharia and Awqaf officials.

Mlle. DANNEVIG explained that she had a wider issue in mind. Had there been any individual or collective action revealing partiality among Arab, or Jewish, officials? There had been cases of very lenient treatment in 1936; and it was clear that one of the Administration's difficulties in that year lay in the fact that certain Government officials were in sympathy with the terrorists and either sheltered them or failed to assist the Administration in its efforts to suppress them.

Mr. MOODY said that there had been no cases of disloyalty to Government for political reasons among the Jewish officials. As for the Arab officials, there was no doubt that everyone of them held strong political opinions. At the same time, they had, on the whole, proved loyal and

trustworthy, the only exceptions being the cases already mentioned.

PUBLIC SECURITY: TERRORIST BANDS.

Mlle. DANNEVIG was well aware of the fact that a number of Arab officials had lost their lives as a result of their complete loyalty. At the same time, it was a common occurrence for a terrorist gang to disappear into thin air. How was this possible? How could the United Kingdom Government, with every resource at its disposal, fail to track down those armed bands of murderers in a comparatively small country?

Sir John SHUCKBURGH readily admitted that the position was highly unsatisfactory, and sympathised with Mlle. Dannevig's view. It should be remembered, however, that the large organised bands of terrorists had now been put down. There remained small and highly mobile gangs, whose capture was very much less easy to effect. The country was difficult and, especially in the northern districts, the Administration was faced with a population which, generally speaking, did nothing to assist it. Experience of disturbances in other countries showed very clearly that it was those small, highly mobile bands which were the most difficult to put down, especially in circumstances where they could rely, if not on the active assistance of the local population, at least upon their passive sympathy.

The difficulties had been increased owing to the existence of an open frontier to the north and north-east, across which the bands readily effected their escape, and arms and ammunition could filter through into Palestine. In this connection, a marked improvement was hoped for from the erection of the barbed-wire fence to which he had made reference in his opening statement.

FOURTH MEETING.

Held on Thursday, June 9th, 1938, at 4 p.m.

Palestine: Examination of the Annual Report for 1937

(continuation).

Sir John Shuckburgh, Mr. Moody and Mr. Kirkbride, accredited representatives of the mandatory Power, came to the table of the Commission.

PUBLIC SECURITY (*continuation*) : TERRORIST BANDS
(*continuation*): FRONTIER CONTROL.

Mr. KIRKBRIDE said that, although he was primarily there to answer questions relating to Trans-Jordan, he had been asked to deal with the question of armed gangs in Palestine, because for the last eight months he had been directing operations against such gangs in the most disturbed part of Palestine.

The report gave no idea--indeed, there was no space for the purpose--of the efforts that were being made to cope with these bodies of men.

The tactics adopted by both the armed forces of the Government and the gangs had been changed constantly as success and failure had been registered.

Terrorism in Palestine had taken two forms--viz., gangs of armed men in the more inaccessible parts of the country and individual terrorists in the towns. He would deal first with terrorism in rural areas.

When the present phase of disorder started, large gangs of armed men, sometimes several hundreds strong, consisting of local recruits gathered round a nucleus of Arabs from adjacent countries, were "out" in the hilly parts of the Galilee and Samaria districts. Mobile columns of troops and police were formed to deal with them and actually fought a series of pitched battles in which large numbers of gangsters and many of their leaders were killed. The bands did not lack arms and ammunition and occasionally showed courage of a very high order, albeit in an evil cause. It would be difficult for anyone who had not been over the country to form any idea of the natural obstacles present in the areas frequented by the bands. For instance, infantry making a great effort could only advance a mile an hour on an average. To anyone who had been a soldier, that fact was significant.

Following on a series of defeats at the hands of the mobile columns, the gangs changed their tactics and formed into small parties of from ten to twenty men, who hid their arms during the daytime, resumed a normal life as villagers and cultivators, and met again at night at some pre-arranged point to indulge in sniping, the ambushing of police-patrols and sabotage--in fact, any form of outrage or disorder which circumstances permitted. They disappeared before daylight and, when the police and armed columns arrived on the scene, they found only a number of apparently peaceful villagers.

As a result of this change in tactics, the mobile columns of police and troops could find no objective at which to strike, particularly as the Arab inhabitants of the country, either from sympathy with the gangs or fear of reprisals, refused to give information even when offered large sums of money.

A typical example was given by a case of which he had personal knowledge. A police-patrol had been fired on between Nazareth and Tiberias. A police-dog was taken out in the morning and followed the scent of the empty cartridges left on the scene of the firing to a house in a village some eight or ten kilometres away. The owner of the house first strenuously denied having had any visitors during the night. He eventually admitted that there had been visitors but refused to say who they were, even if his refusal led to his own death. He was interned in Acre for refusing to co-operate with the police, but the gang was not caught.

The dispositions of the armed forces of the Government had recently been changed in an endeavour to deal with the new position. In place of the large mobile columns, parties of police and troops occupied villages, and numerous ambushes were put out at night at spots where gangs were likely to attempt sabotage or sniping. These ambushes had had considerable success. A number of people had been killed *in flagrante*, and several armed men had been captured and had paid for their crime on the scaffold. It was too early to say whether the new tactics would be completely successful: that would inevitably be a matter of time in the circumstances, especially with an Arab population which, if not rebellious, was sullen and resentful.

Individual assassins in the large towns constituted an even more difficult problem. There were a number of fearless and masterless men who, although certain of execution if caught, showed extraordinary patience in stalking-down their victims. They followed the man they had been ordered to murder until a propitious moment arrived; then he would be found shot down in the street, and no one would be willing to give any evidence whatever.

In one instance, the head-man of a village near Safad was shot dead in the street in the middle of the day; the police were on the spot in time to put their hands on fifteen people who were standing within a few yards of the murdered man. Although it was a manifest absurdity, these fifteen witnesses insisted through thick and thin that they had seen nothing and heard nothing. They were detained for a time and were offered rewards and police protection if they would give evidence; but nothing would move them from their original testimony, which was palpably false.

In another case, which happened only a month previously, one of the few Arab notables who had co-operated with the accredited representative in the administration of his district was shot at Acre. He had a large following in the district and a number of very able sons. The sons admitted that they knew who was the murderer, but would give no information; they said they did not intend to take any action for the moment, but would avenge their father's blood when the time came.

A murder organisation of that type need not be large--in fact, the smaller it was the more effective, as leakages were less likely to occur.

A murder gang in Jerusalem had been stamped out; but there was another in existence at Haifa, with which it was hoped to deal in time. It was very difficult, however, if not impossible, to obtain evidence that would secure a conviction before the courts.

Similar situations had no doubt arisen in the past in other countries, and some of them had been solved successfully; but in every case, success was only attained after considerable expenditure of energy over a long period of time.

Mr. Kirkbride had endeavoured to give the Commission a

picture of the position. He felt that any suggestion that the police or the troops in Palestine were not doing their best to cope with the situation was a wholly undeserved criticism on an overworked body of men, many of whom spent the whole of their lives under the continual threat of murder.

The CHAIRMAN felt convinced that everyone realised the difficulties that stood in the way of repression. But he could not readily understand why repressive action still failed, after so long a time, to produce results. It was well known that the terrorist campaign in Palestine, and the powers of resistance shown by the armed bands, had been able to persist solely owing to assistance received from outside in the shape of arms, ammunition, money, men, and even sometimes leaders.

But it would seem easy to supervise the frontier of the territory along most of its length--namely, the sea-coast and the Trans-Jordan border, where the same mandatory Power was in charge on both sides. There only remained the 130 or 140 kilometres of the Syrian frontier. Was it across that stretch that all the assistance extended to the Palestine rebels had come?

If such were really the case, the Chairman would like some information on the steps taken to guard the Syrian frontier, and to know why those steps had proved so ineffective. It was to be presumed that the mandatory Power could, in that connection, count on the assistance of the Power responsible for the Syrian mandate.

Mr. KIRKBRIDE thought that little or nothing came over the sea frontier or the Trans-Jordan frontier. The Trans-Jordan authorities were doing their utmost to prevent illicit traffic in men and arms across their territory. They were finding the task just as difficult as had the Palestine authorities, but had had some success. They had recently seized, for example, a large consignment of arms and ammunition of Syrian origin inside the Trans-Jordan frontier.

The Syrian frontier was far from easy to control. A separate organisation of police-posts, men and armoured cars was set up for the purpose, and a special frontier-road was constructed; but, even so, control had not been effective, the reason being that men did not cross over in

large bodies which could easily be seen on either side of the frontier. They came in groups of four or five during the hours of darkness and crawled through the very broken country to within 300 or 400 metres of the road, waited until the patrol had crossed, and passed across the road themselves immediately afterwards. They were then in equally broken country inhabited by Arabs who were sympathetically disposed towards them and gave them hospitality and sanctuary.

Throughout his period of office in the Galilee-Acre district, he had been in close contact with the French officers on the other side of the frontier. He had no doubt whatever that they and all the officers of the mandatory Power in Syria had done all they could to assist. The whole of the Arab population in Syria and Lebanon was, however, in sympathy with the Arabs of Palestine, and gangsters and arms smugglers crossing the frontier had always had the assistance of the Arab population of the country they were leaving. In fact, the mandatory Power in Syria experienced much the same difficulty as the mandatory Power in Palestine had met with in controlling frontier-traffic of this kind.

Control by police-patrols along the northern frontier was clearly insufficient; and Sir Charles Tegart, who came to Palestine to advise the Palestine Government on questions of police organisation, supported a suggestion that a barbed-wire fence should be constructed, not necessarily along the actual line of the frontier, but along a suitable alignment adjacent to the frontier-road. This fence was not intended to afford protection to any particular area or areas, but to ensure more effective control of the frontier generally.

The type of barbed-wire fence selected for the purpose was 6 metres in depth and 2 metres high with two bays in the centre about a metre high. The uprights of the faces and bays were interconnected with rigid wire; but the really effective check was provided by quantities of loose coils of barbed wire draped over the centre of the fence. Experimental sections of fence had shown that a rigid wire fence was easily passed, even without the use of cutters: an infantryman with a rifle and ammunition had succeeded in getting through in a minute and thirty seconds. The same man tried the fence including loose wire and was not only unable to get through but could not extricate himself

without assistance from the loose wire, which wrapped itself round him.

Of course, no wire fence, however formidable, was impassable, if left untended: sooner or later it would be broken through. The proposed fence would, therefore, be patrolled by armoured cars each with a small searchlight having a range of 700 or 800 metres. Nine block-houses provided with searchlights and machine-guns were being erected at strategic points, and eight police posts to take thirty to forty men would be constructed at intervals along the length of the frontier-road. Gates would be provided near the posts and blockhouses to enable cultivators to pass through the fence on their legitimate affairs. Personally, he believed that, when the fence had been completed, the frontier would be effectively controlled.

Sir John SHUCKBURGH added that the fence was expected to be completed by about the first week in August.

M. VAN ASBECK asked whether it would be electrified.

Mr. KIRKBRIDE replied in the negative.

The CHAIRMAN observed that although those details were of interest, they did not entirely meet the point he had made.

Mr. Kirkbride had revealed clearly all the difficulties which the French authorities, like the British, encountered in their efforts to supervise the frontier district. Did the French authorities, however, in Mr. Kirkbride's opinion, exercise a sufficient control over the traffic in and transport of arms and ammunition within the country, over the movements of the leaders of the rebellion who entered and left the district, and particularly over the political refugees who had found shelter there?

Sir John SHUCKBURGH said the Chairman had raised a very delicate question. People on one side of any frontier were always apt to feel that the neighbouring country might show a little more energy. Speaking quite frankly, he thought that, in the circumstances, the French authorities had done all that could be expected of them. As Mr. Kirkbride had pointed out, they were faced with the same difficulty as the British authorities--namely, what had been described as a "conspiracy of silence" on the part of the population.

The question of political refugees was very important. As the Commission was aware, there was at the present time one refugee in Syria who was believed to be still responsible for a great deal of the trouble in Palestine. On this point, he would prefer to say no more than that the United Kingdom and French Governments were in close consultation on the subject.

The CHAIRMAN thought that his questions were justified, since Palestine and Syria were countries between which many links existed. Both were administered under League mandates. The common source of the authorities under which they were governed resulted in the existence of mutual obligations. It was inconceivable that one of the two countries should harbour the mainspring of a movement of resistance to the application of the mandate in the other.

Sir John SHUCKBURGH said that he fully appreciated the force of that consideration. He felt sure that it was constantly present in the minds of both the United Kingdom and French Governments.

JEWISH AGENCY: QUESTION OF AN OFFICIAL ARAB ORGANISATION TO
MAINTAIN CONTACT
WITH THE MANDATORY AUTHORITIES.

Count DE PENHA GARCIA noted that three pages in the report (pages 56 to 58) were devoted to the position of the Jewish Agency which formed part of the machinery of the mandate and put forward representations on certain matters.

Did not the fact that this body had an official position under the mandate, and even assisted to maintain order, render the pacification of the Arabs more difficult? From the beginning, the Jewish Agency had collaborated with the mandatory Power in accordance with Article 4 of the mandate; but there was no provision for Arab co-operation on similar lines.

Sir John SHUCKBURGH said that, quite apart from the recent disturbances, it had long been felt to be a matter for regret that the Arabs had no regular official channel of communication with the mandatory authorities on the same lines as the Jews.

It would be remembered, however, that, after the breakdown of the first proposals for setting up a Legislative

Council, the mandatory Power offered to set up an Arab Agency on the same footing as the Jewish Agency. That offer was rejected because the Arabs were determined to do nothing that would involve recognition of the mandate. It followed that, if the Arabs had no official agency through which to approach the mandatory authorities, they had nobody to blame but themselves.

He thought it right to add that, despite the absence of an official agency, representations made by the Arabs to the High Commissioner had always received the fullest possible consideration; prominent Arabs in Palestine had access to the Government in much the same way as officials of the Jewish Agency. No doubt the Arabs had always felt, apart from any question of an agency in Palestine, that the Jews derived an undue advantage from their world-wide ramifications, from the presence of prominent Jews in London who could approach the Secretary of State direct and so forth. There might be force in this argument; but he did not see how it could be helped. The advantage was one which the Jews must inevitably derive from their superior wealth, organisation and knowledge of the world. It had been the constant endeavour of the mandatory Government to hold the balance equally.

Count DE PENHA GARCIA said his sole desire was to bring out a point which might have some bearing on the situation. It seemed to him that the increased co-operation of the Jews in police duties might be an additional cause for dissatisfaction in Arab circles. However, he did not want to press that point. It was a--perhaps inevitable--consequence of the form which the organisation of the mandate had assumed.

Palestine: Examination of Petitions: Letter, dated May 4th, 1938, from the President of the Jewish Agency for Palestine, accompanying a Memorandum on the Development of the Jewish National Home in Palestine in the Year 1937
(Rapporteur: Count de Penha Garcia).

JEWISH IMMIGRATION: DEPARTURE FROM THE PRINCIPLE OF
ECONOMIC ABSORPTIVE CAPACITY.

Count DE PENHA GARCIA asked, in connection with the Jewish Agency's representations concerning immigration, whether the temporary suspension of the economic absorptive

capacity principle would run for one year from March 31st, 1938 (pages 56 and 57 of the annual report).

Sir John SHUCKBURGH said that the High Commissioner had taken power to extend the regime of special control for a further period of one year from March 31st last, but had only actually extended it for six months. At the end of six months, he might or might not extend it for a further period. If at the end of a year any question arose of further extension, this could be effected only by fresh legislation.

Count DE PENHA GARCIA said the decision reached had some bearing on the idea that the delimitation of the Jewish area could not be terminated within a year. The Commission had been given to understand that, as soon as the area to be devoted to the Jews had been delimited, the economic absorptive capacity principle could once more be applied.

Sir John SHUCKBURGH said it certainly could and would be applied again; but in providing for the future, it was always wise to allow a margin. It was considered best for the High Commissioner to take these powers for the full period of one year. For the moment, he had only exercised them for a period of six months. If before the expiry of six months the position had regularised by the acceptance of a definite scheme of partition, that fact would certainly be taken into consideration, and revised arrangements with regard to immigration would be introduced as soon as possible. He did not think that the power to make a change when the time came was in any way prejudiced.

MINIMUM CAPITAL OF BANKS.

Count DE PENHA GARCIA thought the mandatory Power had acted wisely in refusing to comply with the Jewish Agency's request that the minimum capital of banks should be reduced from £P.25,000 to £P.5,000 (page 57 of the report). Approval of that minimum capital would lead to the appearance of a number of small banks without sufficient financial backing.

Mr. MOODY said the effect of the existing legislation was to eliminate such small banks as did not possess the true characteristics of banks. The necessity for this

legislation had been illustrated by the banking crisis in the autumn of 1935.

HULEH CONCESSION.

Count DE PENHA GARCIA noted that the mandatory Power did not feel able for the moment to deal with the question of the Huleh Concession, as it was bound up with the question of partition. This was another instance of the disadvantage of unduly prolonging the present state of affairs. The Huleh Concession question might well have important economic effects, and yet nothing could be done (page 57 of the report).

Mr. MOODY said that, apart from any question of principle, it would be impossible in the present circumstances to find from public funds the very large sum of money--about a quarter of a million pounds--which would be necessary to enable the Government to participate in the development of the Huleh area.

ECONOMIC SITUATION: IMPORTS AND EXPORTS: AGRICULTURE.

Count DE PENHA GARCIA said that, according to the official statistics, exports and imports increased in 1937, which should have been a good year (page 226 of the report). Yet the Jewish Agency claimed that the position with regard to agriculture--that was to say, the financial situation of the owners of citrus fruit plantations and those engaged in mixed farming, in both of which activities Arab and Jewish capital was invested--was far from satisfactory.

The Jewish Agency pressed for loans to municipalities, to owners and cultivators and for measures to create work. It also claimed that the industrial position was unsatisfactory.

On closer consideration, there might be some explanation for what appeared to be a paradox. His own view was that the chief export--oranges--was sold, not perhaps at a loss, but at a very low profit, and that, consequently, the results were not very satisfactory, even though exports had increased. The reason for the increase in imports might be that for want of funds and protection the Palestine industries were unable to produce the articles required, which had therefore to be imported.

Mr. MOODY said that, generally speaking, exports and imports had fallen since the peak year of 1935 on account of the disturbances in Palestine and the uncertain political future.

He thought that Count de Penha Garcia's explanation regarding the economic situation of the orange industry was correct. The large increase in the export of citrus fruits did not necessarily connote the greater prosperity of the industry. The industry had already a heavy burden of debt amounting to several million pounds, and the Orange Growers' Association had suggested that the Government should float a loan of one million pounds to pay off some of the debt. Apart from the financial position of Palestine at the present time, the Government did not consider that the addition of another million pounds' worth of debt would in fact solve the problem of the orange industry.

A similar situation existed in respect of mixed farming, where the suggestion was that the Government should lend £150,000 for the reduction of short-term debts and their conversion into long-term (ten-year) debts. The effect of such a measure would be to add to the annual burden of the farmers an amount greater than the amount they already paid.

As for the suggestion--it was a mere suggestion--that the Government should make loans to industries, it was not felt that a sufficiently good case had been made out to justify the lending of public moneys.

Generally speaking, the revenue of the Palestine Government had been falling since the peak year 1935/36, and expenditure had been mounting on account of defence and public security measures, so that (apart altogether from the merits of the Jewish Agency's suggestions, which had been carefully considered by the Administration) no money was available for such projects.

Count DE PENHA GARCIA thanked the accredited representative for his observations, from which he would draw his own conclusions.

The remarks of the accredited representative seemed to indicate that the situation in both industry and agriculture was not altogether satisfactory. The Jewish

Agency naturally spoke on behalf of the Jewish community; but Arab cultivators were also involved. Indeed, from the economic standpoint, there could be no distinction between Jew and Arab as such. The economic situation of the country must be taken as a whole. He felt bound to point out that it was becoming worse, and that no solution seemed to be forthcoming. If and when partition were effected, it might prove to be partition of a country the economic value of which would have sunk to a very low state.

M. VAN ASBECK said he was not quite clear as to one point. According to paragraph 3 of the letter from the President of the Jewish Agency, "In spite of these adverse factors" (the factors described in paragraph 2) "the year under review revealed the strength and resilience of the Jewish economic structure". Further on, Dr. Weizmann stated that the export figure for 1937 was the highest yet recorded for Palestine.

Mr. MOODY said that, in point of fact, exports would appear to have been higher in 1937 than in any of the last five years. Imports, on the other hand, were higher than in 1936, but considerably lower than in 1935. M. van Asbeck would, no doubt, have noticed that orange exports represented nearly 80% of the whole figure.

The Government had done everything that was possible in the present financial circumstances to assist the orange industry and mixed farming. It had reduced the taxation on citrus land and it was continuing the ordinary economic measures of alleviation which were described in the annual reports of past years. For instance, a loan to hill cultivators of £50,000 was being issued (page 265 of the report).

As the same time, he thought it was true, as Count de Penha Garcia suggested, that there was at present no ground for optimism in respect of the economic situation in Palestine.

LOAN FOR THE CONSTRUCTION OF JEWISH SCHOOLS.

Count DE PENHA GARCIA asked whether any decision had been reached as to the request of the Jewish community for a loan for the construction of Jewish school-buildings by the Vaad Leumi (page 58 of the report).

Mr. MOODY said that, with the approval of the Government,

the Vaad Leumi had been trying to float a loan from a private firm. The Palestine Government had participated in the negotiations, but unfortunately, on account of conditions in Palestine, and the uncertainty of the future, the negotiations had not been successful.

COMMERCIAL RELATIONS: QUESTION OF THE REVISION OF CUSTOMS AGREEMENTS.

Count DE PENHA GARCIA noted that the Jewish Agency had asked the mandatory Power to establish a protective tariff on a number of commodities and to arrange for the revision of the Syria-Palestine Customs Agreement (page 58 of the report).

In its observations on Dr. Weizmann's letter, the mandatory Power referred to the general lines which negotiations with Syria were likely to follow. Would the same considerations be applied to other products and countries?

Mr. MOODY said the Palestine Administration, with the agreement of the mandatory Government, recognised the need for the amendment of the Palestine-Syria Customs Agreement and also the Trans-Jordan-Syria Customs Agreement; and to that end the High Commissioner had already approached the French authorities in Syria.

Sir John SHUCKBURGH suggested that it was not unusual for an extreme right and an extreme left party in politics to unite in criticising a centre party which happened to be in power.

Agudath Israel was a religious body, pure and simple. It held the view that the Zionist Organisation was too secular, too much concerned with material affairs, that the revival and maintenance of old religious traditions in Palestine was of greater importance than questions of land, industry, etc.

The New Zionist Organisation represented the extreme political claims of Jewry in respect of Palestine.

M. VAN ASBECK understood Agudath Israel was the most orthodox section of Jewry, and stood for a theocratic Jewish State. Why, then, was it interested in so worldly an institution as the Agency?

Sir John SHUCKBURGH thought its interest was primarily of a missionary character; it was anxious to convert others to its own way of thinking.

The CHAIRMAN asked whether the answer to M. van Asbeck's question should not be, that the "appropriate" organ was that organ which the mandatory Government, leaving aside any other factor, considered to be best qualified to fulfil the functions specified in Article 4 of the mandate.

Sir John SHUCKBURGH agreed. He reminded the Commission that, as a matter of history, the original Balfour Declaration took the form of a letter addressed to the then Lord Rothschild, as President of the Zionist Organisation at the time. The Organisation had always played a leading role from the start. So long as it could still be regarded as the best agency for the purposes of the mandate (and it was still so regarded by the mandatory Power) there appeared to be no case for calling upon it to modify its constitution.

Replying to M. van Asbeck's question, he thought that Agudath Israel was only a small section of world Jewry. The New Zionists sometimes claimed to represent a very considerable proportion; but he had no means of checking such figures as had been quoted to him. Probably a certain number of Jews wavered between one body and the other. It would be very difficult to make any exact estimate of their relative numerical strength.

Mlle. DANNEVIG had been under the impression that Agudath Israel co-operated with the Zionist Organisation, but that the New Zionists had completely seceded.

Sir John SHUCKBURGH did not think that the attitude of Agudath Israel had been one of active opposition. There had been some differences over the issue of labour certificates and so on.

M. PALACIOS added to his previous observations that account would have to be taken, in the matter of the Jewish Agency, of the experience gained in connection with the "broadened" Agency to which reference had already been made, and which, in 1929, had modified the original situation.

FIFTH MEETING.

Held on Friday, June 10th, 1938, at 10 a.m.

Palestine : Examination of the Annual Report for 1937
(continuation).

Sir John Shuckburgh, Mr. Moody and Mr. Kirkbride came to the table of the Commission.

ORIGINS OF, AND SUPPORT EXTENDED TO, THE TERRORIST MOVEMENT: QUESTION OF FOREIGN INFLUENCE: ARAB HIGHER COMMITTEE: ACTIVITIES OF THE EX-MUFTI.

M. VAN ASBECK said that he had been greatly impressed with Mr. Kirkbride's description of conditions in Northern Palestine and of the dangers and difficulties with which the Administration was faced. He desired to express his sincere admiration of the conduct of both the civil and military officials and subordinates.

For the Mandates Commission, it was evidently a most interesting task to trace back the terrorist movement to its exact origin. Could the accredited representative say anything about outside influences and about possible foreign support extended to the leaders of agitation?

Sir John SHUCKBURGH replied that there was clear evidence of assistance given by Arab neighbours. He was unable to say anything about help from further afield. There was no evidence that could be regarded as conclusive.

M. VAN ASBECK referred to page 20, paragraph 50, of the annual report (text of the official *communiqué* of October 1st, 1937, paragraph 5) and asked what grounds there were for supposing, as this paragraph seemed to do by the use of the word "therefore", that the Arab Higher Committee had played a part in the outbreak culminating in the murder of Mr. Andrews and that outrages and propaganda were conducted from the same centre.

Sir John SHUCKBURGH said that the paragraph must be read as a whole. Action against certain persons was taken because the conclusion had been reached that they must be regarded

as morally responsible for the outrages. It was not claimed that this conclusion was based on legal evidence.

M. VAN ASBECK asked whether the ex-Mufti and the late Arab Higher Committee had ever explicitly and publicly condemned terrorist acts.

Sir John SHUCKBURGH replied that the ex-Mufti and the members of the Arab Higher Committee had published a statement in that sense immediately after the murder of Mr. Andrews.

M. PALACIOS was glad to hear that, as it threw much light on the situation. It should not be forgotten that, while condemning the outrages, the Arabs felt they should struggle to defend their land and that, to them, the men who were regarded by others as extremists and terrorists were patriots and heroes. In a communication he had received as a member of the Mandates Commission, the author of which would seem to belong to the Arab Higher Committee, it was said that, to stop extremist activities, it would suffice to remove the cause--that was to say, the invasion and the partition scheme; the author added that, in his opinion, there was not an honest man in the world who, in similar circumstances, would not defend his country, as the Arabs were doing.

Sir John SHUCKBURGH reminded the Commission that the Arab Higher Committee had had no recognised existence since September 1937.

M. VAN ASBECK, reverting to the official *communiqué* of October 1st (page 20 of the report), said that the expression "morally responsible" had been deeply resented by the Arab Higher Committee and a petition had been received protesting against those words. He would like to know whether the Arab Higher Committee had taken any definite action to discourage terrorist acts and outrages before the murder of Mr. Andrews or not.

Sir John SHUCKBURGH replied that the Committee might have publicly and ostensibly deprecated outrages, but that the Government had nevertheless reached the conclusion--a conclusion admittedly not based on legal evidence--that they were morally responsible.

Mlle. DANNEVIG felt that there must be some controlling

power behind the armed bands. Since the Arab Higher Committee had been outlawed, who was this secret directing influence?

Sir John SHUCKBURGH said that it was not easy to give an answer to that question. It must be remembered that not all the members of the Arab Higher Committee had been arrested and deported; some, including the ex-Mufti himself, had escaped, in spite of every effort by the Administration to effect their capture.

M. VAN ASBECK said that the fact that the ex-Mufti was now in Beirut under the protection of the French and Syrian authorities might arouse some interest but could not usefully be discussed with the accredited representative for Palestine. The position of the Arab Higher Committee had been very fully discussed the previous year and it had now ceased to exist; he therefore did not wish to revert to that matter.

Mlle. DANNEVIG asked whether, in view of the fact that the Administration had found it impossible to track down the instigators of outrages within Palestine, it believed that the actual fomenters of disturbance were to be found outside the country? She thought the situation was most unsatisfactory.

She also wished to refer to a sentence of death recently passed on a small group of young Jews found carrying arms. While crimes of the same sort committed by Arabs went unpunished, because the latter could not be brought to justice or witnesses could not be brought against them, it was difficult not to hope that such sentences would be commuted into imprisonment.

Mr. MOODY explained that the great difficulty was to obtain evidence of incitement to commit outrages, of intimidation, provocation, etc. The Administration sought to guard against terrorism by detaining all suspects, of whom some 600 were now under guard under the emergency ordinances. Constant vigilance was necessary; and the Administration never hesitated to round up suspects.

Sir John SHUCKBURGH added that, whereas everybody must agree that the balance of criminality was overwhelmingly on the Arab side, there had nevertheless been cases of reprisals on the side of the Jews. The law had to be

administered and punishment to be meted out impartially to whatever section of the population the accused person might belong. With regard to the case of the young Jews mentioned by Mlle. Dannevig, he had no knowledge of the details. He believed that two Jews had recently appeared before a military court on a charge of carrying arms.

The CHAIRMAN said that, in connection with the repression of terrorism, it was well known that a well-organised information service in an Arab country had considerable facilities for the accomplishment of its task. He was inclined to think that the Palestine authorities must be very well informed as to the instigators and leaders of the movement and that the whole of the difficulty in repressing terrorism was that prosecutions could not be carried through successfully because the witnesses disappeared.

Mr. MOODY confirmed that that was the position. Although it was true that information was normally easy to obtain in Arab countries, the position in Palestine, as the Royal Commission rightly stressed, had changed as a result of the disturbances; in the present circumstances, it was in fact impossible to secure definite evidence concerning crime. For that reason, acting under emergency powers, the Administration was now detaining suspects without trial, while certain crimes--e.g., the carrying of arms--were tried by the military courts.

M. GIRAUD said that experience in all countries abundantly proved that, where there was sympathy, open or hidden, with law-breakers on the part of the population, the repression of crime became extremely difficult. After having examined all the circumstances, he fully realised the magnitude of the problem; he felt that the mandatory Power deserved a warm tribute for its conduct in the face of extreme difficulties.

At the same time, the natural desire of the mass of the population in any country was undoubtedly to be able to go about its ordinary business. He would like to know, therefore, whether the extremists were not alienating such sympathy as the bulk of the Arabs might more or less openly have for them, by adopting terrorist methods calling for repression and thus profoundly disturbing the life of the inhabitants of

Palestine.

Mr. MOODY replied that, although the general proposition was true, it had, unfortunately, no bearing on the existing situation in Palestine. Throughout that country, but especially in Galilee and Samaria, the position was that, either through fear of the consequences or through sympathy with the bands, the population was unwilling to help the authorities in putting down lawlessness and tracking down the authors of outrages.

Sir John SHUCKBURGH thought that it was generally true of any country and any age that, where a large majority of the population took up a line of violent hostility towards a particular policy or regime, people were very slow to come out into the open on the other side. No doubt many Palestinian Arabs desired to live in peace; but as matters stood, it was difficult for them to make their influence felt.

QUESTION OF THE INTERVENTION OF THE ARAB PRINCES.

The CHAIRMAN asked whether, apart from assistance by Arab sympathisers in adjacent territories, the Arab princes had themselves intervened again in Palestine affairs in 1937. The Commission discussed this question at its thirty-second session 4/ and concluded that such intervention could only be regarded as highly improper.

M. RAPPARD added that some members of the Commission had on the previous occasion felt that the mandatory Power, by not deprecating or discouraging intervention by the princes, had opened the door to further intervention. He would also like to know whether such further intervention had in fact occurred.

Sir John SHUCKBURGH said that he would not reopen the question of the propriety of acquiescing in the intervention of the princes two years previously. He wished to state, however, that no action had since been taken by the Arab rulers which could be described as otherwise than perfectly regular. There had been notes and representations, but nothing that was not consistent with proper diplomatic procedure.

ATTITUDE OF THE PRESS.

M. VAN ASBECK asked for information about the position and attitude of the Press. Did the Administration feel that the position had improved?

Mr. MOODY said that in that field at least the Press Ordinance was working fairly well. The attitude of the Press had improved considerably in recent months, but the Administration had in reserve a further draft Ordinance capable of instant application, should the need arise. As the new Ordinance involved a financial guarantee for good behaviour, its effect would probably be, if used, to put most of the local papers out of business.

GENERAL ATTITUDE OF THE YOUNG PEOPLE IN THE TERRITORY :
QUESTION OF JUVENILE
POLITICAL OFFENDERS.

M. VAN ASBECK, referring to the decline in the number of juvenile political offenders (page 155 of the report), asked whether the general attitude of the young had improved in comparison with 1936, in which year it had been very unsatisfactory.

Mr. MOODY said that there had been a marked improvement. Nearly all schools were functioning normally, and the juvenile offenders referred to in the report were probably guilty of no more than intimidation, incitement to truancy, unlawful procession, etc. There had certainly been no cases of outrages committed by them.

CRIMINAL INVESTIGATION DEPARTMENT.

M. VAN ASBECK recalled that the Commission had, in 1937,^{5/} discussed the situation of the Criminal Investigation Department and the bad effect which the disturbances had had on that body. The Royal Commission had also complained of the unreliability of the lower ranks. Had the situation changed since then?

Mr. MOODY was glad to report that, with the advice and assistance of Sir Charles Tegart, a distinguished ex-officer of the Indian police, a thorough re-organisation and strengthening of the Department had been carried out. Effectives had been increased both in the higher and the lower ranks, British officers had come out to assist in reorganisation, complete control of all local branches had

been secured, quarters had been improved. The fact that several Arabs in the ranks had lost their lives in the disturbances seemed to give proof of the loyalty of the lower ranks. He felt that most of them were now both loyal and competent.

APPOINTMENT OF TWO BRITISH CROWN COUNSEL.

M. VAN ASBECK referred to the appointment of two British Crown Counsel (page 91, paragraph 11, of the report) and asked whether this had led to the more effective prosecution of crime.

Sir John SHUCKBURGH replied in the affirmative; he pointed out that, whereas the Royal Commission had recommended the appointment of one Crown Counsel only, two had, in fact, been appointed.

PUBLIC SECURITY (*continuation*): DEFENCE OF THE TERRITORY :
POLICE.

M. SAKENOBE observed that, although a part of the military garrison had been withdrawn from Palestine since 1936, there were still in the country two infantry brigades (six battalions), a flying corps and a police force which, in 1937, amounted to nearly 4,000 men, together with 1,000 supernumeraries, 3,800 reservists and the Trans-Jordan Frontier Force. In addition to this very large armed force, the Administration had adopted drastic measures by setting up military courts, by dissolving the Arab Higher Committee and National Committees, by deporting or arresting considerable numbers of persons, by levying collective fines and by establishing punitive police-posts in a number of villages. In spite of all these measures, however, the situation still showed no improvement. It was, in fact, in some respects worse: the accredited representative's statement at the beginning of this discussion showed that, although during the early months of 1938 the situation had improved in Jerusalem and in the south (where it had never been critical), it was somewhat worse in the north.

It appeared, therefore, that punitive measures were not enough. There was some force behind the terrorists, who were themselves a new manifestation not native to the country. Did the Administration contemplate taking even more drastic steps to root out the evil at its source?

Sir John SHUCKBURGH could only refer M. Sakenobe to the answer he had given to Mlle. Dannevig on the previous day.⁶ There was no doubt that despite the resources at the disposal of the Administration, the complete restoration of order had not yet been effected. The Administration was quite determined to take whatever further measures might prove to be needed.

In reply to a further question, he stated that the withdrawal of one brigade of infantry since 1936 had not brought the Palestine garrison back to its peace-time level.

Mr. KIRKBRIDE stated that the punitive police-posts established in villages where lawlessness was rife had given good results: although the perpetrators of past outrages were not necessarily traced by this means, crime usually ceased while the post remained in the village. Those posts were established for varying periods according to the circumstances of each case.

Replying to a question of M. van Asbeck concerning the new northern frontier police division, Mr. Kirkbride said that the 128 Palestine constables were Jewish and Arab in roughly equal proportions. They were collaborating harmoniously under the direction of British non-commissioned officers.

COLLABORATION BETWEEN ARABS AND JEWS IN THE VARIOUS LOCAL
AND OTHER OFFICIAL
ORGANISATIONS.

M. VAN ASBECK observed (page 129, paragraph 18 of the report) that no mixed Arab-Jewish labour unions had been established during 1937. There had been, in 1936, a fair amount of co-operation both in the local councils and in the judiciary. He hoped that that collaboration had not entirely ceased.

Mr. MOODY replied that, although the labour unions had practically ceased to function, full collaboration was still to be found in the frontier control service--where a mixed force in about equal proportions worked with great zeal and in full harmony--and in the courts. Some of the mixed municipal councils were still working, while others had broken down.

ADMINISTRATION OF THE AWKAFS : APPOINTMENT OF A TEMPORARY
COMMITTEE.

M. PALACIOS drew attention to the following passage in the report relating to the depriving of the ex-Mufti of Jerusalem of membership of the General Wakf Committee (page 21, paragraph 52):

"It has therefore become necessary to take immediate measures to safeguard the interests of the Moslem community by ensuring the continuance of Awkaf services."

As the Commission was aware, these were Moslem religious foundations administered by the Supreme Moslem Council, the General Wakf Committee, presided over by the former Mufti, or through local Mamours. For this purpose, a central Commission had been appointed provisionally. It consisted of three members--namely, two British members, one of whom was the Chairman, and one Moslem member.

M. Palacios would be glad to know, in the first place, whether the mandatory Power had had in mind a principle which was laid down in Article 13 of the mandate:

". . . *nothing in this mandate* shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed."

Assuming that that article had not been overlooked, how did the mandatory Power justify its action from the legal standpoint?

In the second place, he would be glad to know whether the members of the Moslem institutions could not have been replaced temporarily--it was doubtless necessary to replace them in the circumstances--by Moslems.

In the third place, he would be glad to know whether the Moslem member of the Commission--Sheikh Jarallah (page 22 of the report)--had taken up his duties and was still fulfilling them.

Lastly, he would be glad to know whether the new Commission had undertaken the necessary work of checking and auditing the accounts so as to ascertain whether the funds of the sacred shrines and religious foundations had been used by the administrators, who had been removed, for purposes for

which they were not intended--for instance, for encouraging disturbances, for political campaigns and for other activities of the same kind.

Mr. MOODY replied that the Supreme Moslem Council was still in existence, although the ex-Mufti had been deprived of his office as President of the Council. The decision announced in the *communiqué* of October 16th, 1937, was to transfer the financial control previously exercised by the Council and the general Awkaf committee to a new commission, on which the Arab member was, in fact, participating effectively.

As regards the funds, the new commission's view was that it could not be established that money had actually been diverted to political uses. But appointments had generally been made on political grounds. Since the departure of the ex-Mufti, all the nine Awkaf local managers and the director-general had been replaced.

M. PALACIOS thought the accredited representative would have replied, as regards the question of principle, by quoting Article 16 of the mandate, which seemed to be contrary to Article 13, since it made the mandatory Power responsible for exercising such supervision over religious or eleemosynary bodies of all faiths as might be required for the maintenance of public order. Apart from the fact that Article 13--especially the words "nothing in this Mandate shall be construed . . ."--would seem to take precedence over Article 16, the latter itself again stressed the "non-intervention" obligation.

Mr. MOODY pointed out that the new commission, according to the official *communiqué*, was purely temporary in character. It would be kept in being until such time as the Moslem community could once more take over the complete control of the Awkaf funds.

There had been no violation of Article 16, since the first sentence specifically laid down that the mandatory Power should be responsible for exercising such supervision as might be required for the maintenance of public order and good government. That reservation qualified the principle of religious autonomy laid down in the latter part of the article and fully justified the appointment of the new commission.

JEWISH IMMIGRATION (*continuation*) : DEPARTURE FROM THE
PRINCIPLE OF THE ECONOMIC
ABSORPTIVE CAPACITY OF THE COUNTRY (*continuation*).

M. RAPPARD said that he did not feel happy about putting questions on the subject of immigration. While the disturbances continued in Palestine, he felt that over-worked and anxious officials might with justice resent questions of detail, which in the circumstances were bound to be somewhat unreal. At the same time, the Commission had to report to the Council and for that purpose the question must be discussed.

This was the first occasion on which the special exigencies of the mandate itself had compelled a mandatory Power to have recourse to force. That fact again made it difficult to proceed as if the case were a normal one.

In regard to immigration, it was admitted that the terms of the mandate were not being fully applied, that an interim period had intervened, and that special circumstances had compelled the mandatory Power to suspend the application of an obligation enshrined in the mandate.

The accredited representative had stated on the previous day that it was the policy of the mandatory Power, and not the application of the mandate itself, which had changed. But it must be remembered that even the principle of "economic absorptive capacity" was a restriction upon the full application of the mandate. The latter spoke of the obligation to "facilitate immigration"; and, although the qualification of "economic capacity" had been readily recognised as entirely reasonable, it clearly limited the original formula.

The latest event was a further restriction upon immigration--a measure described as transitional, but one which, it would seem, would have to continue until the end of the mandate and the creation of the partitioned States. The fact must be faced, therefore, that the mandatory Power had on two occasions declared its inability to give full effect to the actual terms of the mandate--namely, to facilitate immigration.

M. Rappard was far from intending to criticise. But he did desire to ask that everything possible should be done to

bring the interim period to an early conclusion. The present situation was unfortunately illegal, and the disturbances were bound to continue until that illegality ceased. As soon as a definite decision of a concrete character had been taken, the overwhelming desire of the population to live in peace would reassert itself.

He did not feel that he could put detailed questions regarding immigration to the accredited representative in those circumstances. The mandate was not being fully applied; he was fully aware of the reasons for that fact. All the Commission could do was to assist the mandatory Power in reaching a final solution as soon as possible--even a solution which might not be perfect--for it would still be infinitely preferable to a prolongation of the period of uncertainty.

Sir John SHUCKBURGH greatly appreciated the moderate and considerate manner in which M. Rappard had expressed himself on an issue on which he felt deeply. For his own part, he had said on the previous day, and he would repeat, that he was far from wishing to take up a controversial attitude on this or any other point.

He would therefore merely say that the United Kingdom Government had never accepted the view that its recent action in regard to immigration constituted an illegality under the terms of the mandate. A reference had been made to the obligation to "facilitate immigration". He quite recognised that, when the Council adopted the terms of the Palestine mandate, one of the documents before it was the document known as the Churchill White Paper, in which the phrase of "economic absorptive capacity" was used for the first time. It might be argued that the United Kingdom Government then intimated that this phrase represented the policy which it was its intention to pursue in respect of immigration, and that this intimation had been duly noted and approved by the Council. Admittedly there had been a departure from that policy within the last year and special restrictions upon immigration had been temporarily imposed. That might be a matter for regret; but it did not, he submitted, constitute an "illegality" in the sense of involving a breach of the terms of the mandate. The obligation imposed by the mandate was to "facilitate immigration under suitable conditions". The mandatory Power must reserve discretion to determine from time to time what conditions could be regarded as "suitable". The terms of

the mandate were sufficiently wide to cover both the original policy as set out in the Churchill White Paper and the temporary modifications which circumstances had rendered necessary during recent months.

Palestine : Petitions.

The CHAIRMAN explained that, in view of the large number of petitions relating to Palestine, the Commission had decided to set up a Sub-Committee of three rapporteurs.⁷ M. van Asbeck would ask the accredited representative certain questions on behalf of that Sub-Committee.

PETITIONS, DATED OCTOBER 26TH AND NOVEMBER 11TH AND 16TH,
1937, FROM HAMAD HILMY
PASHA AND OTHER MEMBERS OF THE FORMER ARAB HIGHER COMMITTEE
DEPORTED TO THE
SEYCHELLES.

M. VAN ASBECK, referring to the petitions dated October 26th and November 11th and 16th, 1937, from Hamad Hilmy Pasha and other members of the former Arab Higher Committee deported to the Seychelles, asked for information concerning the alleged Jewish terrorist organisations.

Mr. MOODY said it was undeniable that some acts of terrorism had been committed by Jews by way of reprisal, but he doubted the existence of Jewish organisations to promote terrorism. He thought that the Jews, as well as the Arabs, were in possession of a considerable number of illegal arms; and that there did exist among the Jews secret organisations for self-defence. The Hagana was such an organisation, but it was extremely difficult to obtain any information about the organisation on which the Government could take action.

With reference to the allegation of illicit importation of arms by the Jews, the Administration and the police had been extremely active in putting down the illicit arms traffic. The annual report showed that they had had some success in this work. A large consignment of arms had been discovered at Tel Aviv just before the disturbance which broke out in 1933. It had never been definitely established whether those arms were intended for the Jews, but it was generally believed by the Arabs that they were so intended. There had been many seizures of arms since then, especially

in 1936 and 1937.

M. VAN ASBECK noted that the Jews had sometimes been guilty of reprisals but never of first attacks. He felt that credit should be given them for their discipline and restraint. Had acts of reprisal been individual, or organised on a systematic basis?

Mr. MOODY replied that it was abundantly clear that all responsible Jewish bodies and officials strongly condemned acts of reprisal. Information in the possession of the Government indicated that acts of reprisal had been committed exclusively by persons who had no connection with the responsible Jewish authorities; he had no knowledge of the degree of organisation which lay behind them.

M. RAPPARD said that it was clear that there had been infinitely more terrorism on one side than on the other. On both sides, the leaders denied any share in terrorist acts and asserted that they disapproved of such action. Nevertheless, it could not be maintained that there was an absolute parallel in the two cases, and he asked the accredited representative to confirm that the two cases were in fact dissimilar and the attitude of the respective leaders very different.

Mr. MOODY had no hesitation in saying that there was no parallel whatsoever. The fundamental fact was that the Arabs had rebelled against the mandate; that fact must be kept in mind throughout.

Some acts of reprisal had been committed by Jews. Such acts were condemned by all right-minded persons. But it could not be denied that, on the whole, the Jews had displayed a high degree of patience and forbearance in the face of provocation and attacks continuing over a long period. The Administration had not failed to intern under the Emergency Regulations any Jews suspected of being concerned in acts of reprisal. It was extremely difficult to obtain information in these cases, and it was not possible to say to what extent the acts of reprisal committed by Jews were the work of a definite organisation.

M. VAN ASBECK referred to the complaints made in the same petition that the arrest of the members of the Arab Higher Committee had been carried out in a ruthless manner. It was alleged that the arrested persons were given no opportunity

of settling their affairs before departure and that they had been removed to an unhealthy climate.

Sir John SHUCKBURGH replied that prompt action had been imperative. As it was, not all the members of the Committee had in fact been arrested; several persons whom it was desired to apprehend had managed to escape. The Commission should remember that persons deemed, after due consideration, to be morally responsible for a series of outrages culminating in a peculiarly dastardly murder could hardly expect to be treated with special consideration. Their treatment had not been more "ruthless" than the circumstances rendered necessary. As to their health, good reports had been received from the medical officers in the Seychelles. There was no reason to believe that they were suffering in that respect.

M. VAN ASBECK asked whether any further progress had been made with the proposal to institute a new system of election to the Supreme Moslem Council. Circumstances might not be favourable at the moment; but he would like to be assured that the mandatory Power would proceed with this proposal when an opportunity occurred.

Sir John SHUCKBURGH replied that the question was necessarily in abeyance for the moment, but that it would be considered when circumstances improved. If partition were carried out, the whole position would naturally be different.

M. RAPPARD, referring to the petitions of the Arab Higher Committee, said that it was obvious that any Government would have acted with despatch and decision against persons held by it to be morally responsible for a horrible crime. He asked whether since the deportation or departure of the members of the Arab Higher Committee there had been any modification in the mechanism of the terrorist campaign. Such a modification would, of course, afford some evidence of the complicity of the Higher Committee.

Sir John SHUCKBURGH felt unable to answer in the affirmative. Doubtless the torch of violence had been passed on to other hands. The character of the terrorist campaign had not greatly changed : but that did not modify the conviction of the mandatory Power as to the moral responsibility for the series of events leading to the murder of Mr. Andrews.

Mlle. DANNEVIG pointed out that some of the statements in the petitions from the Arab Higher Committee were so patently untrue that she felt unable to take any part of the document at its face value.

PETITION, DATED JULY 28TH, 1937, FROM MR. ASA WHITNEY,
SARISBURY GREEN, HANTS,
ENGLAND.

Sir John SHUCKBURGH, in reply to Count de Penha Garcia, stated that provisional maximum and minimum levels had been laid down for Lake Tiberias, concerning which a petition had been submitted by Mr. Asa Whitney; but these had not yet been finally confirmed.

SIXTH MEETING.

Held on Friday, June 10th, 1938, at 3.30 p.m.

Palestine : Examination of the Annual Report for 1937
(continuation).

Sir John Shuckburgh, Mr. Moody and Mr. Kirkbride came to the table of the Commission.

IMMIGRATION (*continuation*): DEPARTURE FROM THE PRINCIPLE OF
THE ECONOMIC

ABSORPTIVE CAPACITY OF THE COUNTRY (*continuation*):
UNEMPLOYMENT (*continuation*).

Sir John SHUCKBURGH continued his reply to M. Rappard regarding immigration. He was in agreement with M. Rappard's general conclusion as to the importance of regularising the position as soon as possible. Uncertainty inevitably led to political unrest.

He would describe the position in this way. The Royal Commission had looked forward to a period of transition which would elapse between the acceptance of a policy of partition and the actual setting up of States under the partition scheme. During this period, the proposal was that

Jewish immigration should be regulated in accordance with the economic absorptive capacity of the Jewish area. The Royal Commission had not, however, made provision for an earlier period, which might be called the "interim" period. This was the period between the general acceptance of the idea of partition and the actual adoption of a partition scheme. It lay with the Commission now in Palestine to draw up such a definite scheme. During this interim period the Government's view was that it should be careful to do nothing that might materially alter the data on which the Commission had to frame its proposals. It was for this reason that the Government had adopted the purely temporary and arbitrary measures for the control of immigration which were set out in Mr. Ormsby-Gore's despatch. These measures had been imposed for a period of six months. The High Commissioner had taken legal powers to exercise a special control over immigration for a period of one year, but, in fact, the new regulations had been introduced in the first instance for six months only. They could be extended under the existing legislation for a further period of six months; but if at the end of the full year it was still desired to maintain a special control over immigration, this object could be effected only by the enactment of fresh legislation.

During the transition period which would follow the interim period the mandatory Government was pledged to revert to the principle of the economic absorptive capacity so far as it affected the non-Arab parts of Palestine. In the final period, if and when the partition scheme came into full operation, the Jews would have complete freedom of action in their own area. They might still apply the principle of economic absorptive capacity, but it would be applied in accordance with no other standard than their own. The policy of partition had been described by the Royal Commission as a surgical operation. He would remind those who had undergone a surgical operation that there was always a period before the operation actually took place during which sustenance was reduced to a minimum. This did not mean that arrears could not be made up after the operation was safely over. Whatever might be the restrictions upon immigration during the earlier stages, the final consummation of partition would undoubtedly mark a definite and distinct advance.

M. RAPPARD said the Commission had always considered that it was a duty of the mandatory Power to facilitate

immigration, and the present practice had seemed to be a departure from the policy sanctioned by the Council.

Sir John SHUCKBURGH did not dissent. His point was that it was not contrary to any specific article of the mandate itself.

M. RAPPARD did not propose to discuss the instructions given by the Colonial Office to the High Commissioner, but was surprised that the number of immigrants of independent means, that was to say, with a capital of £1,000, should be restricted (page 65 of the report). He would have thought they were desirable immigrants.

Sir John SHUCKBURGH said that experience had shown that these "capitalists" tended not infrequently to drift into the labour market. But the matter was covered by the general consideration to which he had referred--viz., the desire of the mandatory Government not to alter materially the data upon which the Commission now in Palestine had to work.

M. RAPPARD assumed that this view would apply equally to the immigration of non-Jews--for instance, of Arabs--as such immigration would also be calculated to upset the data.

Sir John SHUCKBURGH said the number of non-Jewish immigrants was negligible.

Mr. MOODY added that the following numbers of non-Jewish immigrants were provided for in the next six months: Category A.1, persons of independent means, 20; category A.4, pensioners, 10; category B.1, orphans, 10; category B.2, religious occupations, 200; category C, workmen, 150; category D, dependants, other than wives and minor children, 50.

The CHAIRMAN observed that, according to the table on page 60 of the report, the number of non-Jews immigrating from Great Britain was about six times as great as the number of Jews. He presumed that soldiers and officials were not included in this figure.

Mr. MOODY replied that this number would be accounted for by the families of officials and soldiers, who were classed as immigrants.

M. VAN ASBECK asked whether the figure of 8,000 Jewish immigrants from August 1937 to April 1938 had been found in practice to be sufficient, or whether it was now considered that a larger number could have been admitted without undesirable consequences.

Sir John SHUCKBURGH found it difficult to furnish a specific reply to a question of this nature. His general view was that the number had been about right.

M. RAPPARD noted from the table on page 59 of the report that 64,740 Arabs returned after a period not exceeding one year and that 66,737 Arabs left for a period not exceeding one year. Had these Arabs such passports that they could be identified? He presumed they were seasonal workers.

Mr. MOODY replied that these persons would undoubtedly have travel documents. There was a good deal of traffic between Palestine and Syria, Egypt and Iraq. In addition, there was a seasonal migration of persons who were not in the same category as those mentioned in the table on page 59. They were mainly Transjordanians, who did not require passports to enter Palestine.

Mlle. DANNEVIG thought it must be a great disappointment for the Jewish population that the number of immigrants was again restricted. Would the Jews subsequently be able to make up for those losses by increased immigration? Would they be allowed to immigrate into the part retained under a British mandate.

Sir John SHUCKBURGH said that if and when the partition scheme came into full operation the Jews would have their own territory, within which they could make their own arrangements. In such areas as might still be retained under British mandate immigration would no doubt be permitted, though a certain control might be exercised. So far as related to the Arab area, the matter would be one for the Arab State. He saw no reason why the Jews should not be able to make up for the temporary reduction of immigration by the increased freedom that they would acquire hereafter in respect of their own area. That area would be small, as compared with the whole of Palestine; but it would be subject to no external restrictions whatever.

M. VAN ASBECK asked for closer definition of the expression "to do nothing that might materially alter the data" on which the Technical Commission had to work.

Sir John SHUCKBURGH hoped that the expression would not be regarded as a term of art. It had no high authority, having been coined by himself on the previous day. What he had in mind was this. There was actually in existence a certain situation and a certain balance of interests which formed the basis on which the Commission would have to draw up an equitable scheme of partition. His view was that this balance ought, so far as might be practicable, to be maintained until a decision had been reached.

M. VAN ASBECK presumed that the expression "political high level" had the same meaning.

Sir John SHUCKBURGH said that under the " political high level " the Royal Commission had contemplated an immigration of 12,000 a year for a period of five years, if the existing mandate were continued. The present temporary and arbitrary arrangements were of quite a different character.

M. VAN ASBECK observed that the same rate--namely, 1,000 per mensem, was adopted by the Government for the period ending March 31st. With regard to actions which might "upset the data" for the Commission, he asked whether this would include the movement of Jews inside the country and the colonisation in areas up till now Arab.

Sir John SHUCKBURGH said there were no restrictions on such movements.

M. VAN ASBECK asked what was the criterion on which the figure of 1,000 immigrants a month was based.

Sir John SHUCKBURGH pointed out that this figure applied to the eight months ending March 31st, 1938, but not to the arrangements adopted since that date. It was an arbitrary figure: its adoption was probably affected in some measure by the figure quoted in Part II of the Royal Commission's report.

Count DE PENHA GARCIA observed that there was considerable unemployment in Palestine in 1937 (pages 125 and 126 of the

report).

Mr. MOODY said the unemployment figures quoted in the report were the best estimates that could be made at present. There was considerable unemployment in 1937, and it had increased in 1938.

Count DE PENHA GARCIA observed that this increase in unemployment would obviously affect the economic absorptive capacity of the country.

Mr. MOODY said that the account on pages 30 and 31 of the report indicated that the economic position was not good and was not improving. Since the end of the year he had made a further enquiry and the figure of 13,000 unemployed Jews had been reached at the end of March. The numbers of unemployed according to the Annual Report were 21,000 Arabs and 12,000 Jews at the end of 1937.

M. VAN ASBECK asked what evil consequences were expected by the Government if a larger number of immigrants were admitted.

Mr. MOODY said he had nothing to add to the reasons for the restrictions of immigration given by Sir John Shuckburgh.

M. VAN ASBECK, referring to the accredited representative's definite assertion, given in his introductory statement, from which it appeared that the limitation of immigration was not in opposition to the mandate, wished to raise the question whether the Churchill White Paper had not to be taken into account together with the mandate itself. For, in 1922, the Council of the League had allocated the mandate to Great Britain after having taken note of the White Paper which, in its final part, contained the United Kingdom Government's authentic interpretation of the immigration clause of the mandate. It was on the basis of that interpretation that the mandate was granted. He ventured to think that, in contradistinction to continental systems, it was a principle of English law not to stick to the words of the law only, but to take account of a situation and of all the instruments pertaining thereto. Therefore, in conclusion, M. van Asbeck asked whether the White Paper must not be considered as an annex to the mandate, having the same legal force.

Sir John SHUCKBURGH said that he was not a lawyer and did

not feel competent to argue the legal aspect of this question. No doubt it might be possible to distinguish between the principles of law and those of equity as bearing upon a matter of this kind. He did not propose to go into that. The case was simple enough. The policy laid down in the Churchill White Paper was one which the United Kingdom Government had done its best to carry out for fifteen years. Then circumstances had become too strong and the Government had been obliged temporarily to adopt another course.

The CHAIRMAN asked whether proposals had not been made by Jewish organisations possessing ample capital to carry out public works which would give employment to a large number of people and might justify the admission of a larger number of immigrants.

Sir John SHUCKBURGH had no knowledge of any such proposals.

Notes

1/ See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 119.

2/ *Ibid.*, pages 188 and 189.

3/ See *Official Journal*, December 1937, page 902.

4/ See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 86 *et seq.*

5/ See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 60 and 61.

6/ See page 45.

7/ See page 27.
