LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

MINUTES

of the

TWENTIETH SESSION

Held at Geneva from June 9th to June 27th, 1931,

including the

REPORT OF THE COMMISSION TO THE COUNCIL.

GENEVA, 1931.

Price: 7/6 $2.00.

LEAGUE OF NATIONS

ANNUAL REPORTS OF MANDATORY POWERS

submitted to the Council of the LEAGUE OF NATIONS in accordance with Article 22 of the Covenant.

According to Article 22 of the Covenant, the mandatory Powers have to submit to the Council of the League of Nations annual reports on the administration of the territory placed under their respective mandates.

The only reports which have been published by the League Secretariat are those for 1924. In order, however, to enable libraries and persons who are interested to obtain without difficulty the other reports, which are published by seven different Governments, the Publications Department of the League of Nations has obtained a certain number of such of these reports as are still in print and will supply them at cost price.

A complete list of the reports which can be supplied will be found in the general catalogue, which will be sent free of charge on application to the

PUBLICATIONS DEPARTMENT OF THE LEAGUE OF NATIONS, GENEVA.

Text of the Mandates and Various Documents of a General Character

British Mandate for East Africa. (C.449(1)*a*.M.345*a*.1922.VI.) (French and English texts)	9d.	$0.15
British Mandate for Togoland. (C.449(1)*b*.M.345*b*.1922.VI.) (French and English texts)	9d.	$0.15
British Mandate for the Cameroons. (C.449(1)*c*.M.345*c*.1922.VI.) (French and English texts)	9d.	$0.15
French Mandate for Togoland. (C.449(1)*d*.M.345*d*.1922.VI.) (French and English texts)	9d.	$0.15
French Mandate for the Cameroons. (C.449(1)*e*.M.345*e*.1922.VI.) (French and English texts)	9d.	$0.15
Belgian Mandate for East Africa. (C.449(1)*f*.M.345*f*.1922.VI.) (French and English texts)	9d.	$0.15
Mandate for Palestine and Memorandum by the British Government relating to its application to Trans-Jordan approved by the Council of the League of Nations on September 16th, 1922. (C.529.M.314.1922.VI/C.667.M.396.1922.VI.) (French and English texts)	9d.	$0.15
Mandate for Syria and the Lebanon. (C.528.M.313.VI)	9d.	$0.15
Mandate for Nauru. (21/31/14 A.) (French and English texts)	6d.	$0.10
Mandate for German Samoa. (21/31/14 B. VI.) (French and English texts)	6d.	$0.10
Mandate for German Possessions in the Pacific Ocean situated South of the Equator other than German Samoa and Nauru. (21/31/14 C. VI.) (French and English texts)	6d.	$0.10
Mandate for German South West Africa. (21/31/14 D. VI.) (French and English texts)	6d.	$0.10
Mandate for the German Possessions in the Pacific Ocean lying North of the Equator. (21/31/14 E. VI.) (French and English texts)	6d.	$0.10
Constitution of the Permanent Mandates Commission approved by the Council on December 1st, 1920 (C.P.M.386(1))	1d.	$0.02
Rules of Procedure of the Permanent Mandates Commission. (C.P.M.8(2)) (C.404(1). M.295(1).1921.VI)	1d.	$0.02
Rules of procedure in respect of Petitions concerning Inhabitants of Mandated Territories (Adopted by the Council on January 31st, 1923). (C.P.M.38(1).1927. VI.A.3.) (French and English texts)	4d.	$0.10
Summary of the Procedure to be followed in the matter of Petitions concerning Mandated Territories. (C.545.M.194.1927.VI.A.10. Extract No. 1)	1d.	$0.02
Organic Law for Syria and the Lebanon. (C.352.1930.VI). (C.P.M.1075). (Ser. L.o.N. P.1930.VI.A.3)	1/3	$0.30

[Distributed to the Council
and the Members of the League.]

Official No.: **C. 422. M. 176.** 1931. VI.
ERRATA

Geneva, December 10th, 1931.

LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

MINUTES OF THE TWENTIETH SESSION

Held at Geneva from June 9th to June 27th, 1931.

1. On page I of the *Index*, second column, 20th line from the bottom, the words:

" Deportation of Captain Rassam and Mr. Cope ",

should read as follows:

" Deportation of Mr. Cope ".

2. On page II of the *Index*, first column, end of fourteenth line, for 243, *read 234*.

Series of League of Nations Publications
VI.A. MANDATES
1931. VI.A. 1.

S.d.N. 940 (F.) 920 (A.) 12/31. Imp. Kundig.

[Distributed to the Council
and the Members of the League.]

Official No.: **C. 422. M. 176.** 1931. VI.

Geneva, August 19th, 1931.

LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

MINUTES

of the

TWENTIETH SESSION

Held at Geneva from June 9th to June 27th, 1931,

including the

REPORT OF THE COMMISSION TO THE COUNCIL.

Series of League of Nations Publications

VI. A. MANDATES

1931. VI. A. 1.

CONTENTS.

S.d.N. 990 (F.) 970 (A.) 8/31. Imp. Kundig.

Page

LIST OF ANNEXES.

PERMANENT MANDATES COMMISSION

MINUTES OF THE TWENTIETH SESSION

Held at Geneva from June 9th to 27th, 1931.

The following members of the Commission were present at the twentieth session:

Marquis THEODOLI *(Chairman);*
M. VAN REES *(Vice-Chairman);*
Mlle. DANNEVIG;
Lord LUGARD;
M. MERLIN;
M. ORTS;
M. PALACIOS;
Count DE PENHA GARCIA;
M. RAPPARD;
M. RUPPEL;
M. SAKENOBE.

Also present: Mr. C. W. H. WEAVER, Representative of the International Labour Organisation.

Secretary: M. V. CATASTINI, Director of the Mandates Section.

Some members were not able to take part in certain meetings.
The following accredited representatives of various mandatory Powers attended certain meetings of the Commission:

M. R. DE CAIX, Former Secretary-General of the High Commissariat of the French Republic for Syria and the Lebanon;
Dr. T. Drummond SHIELS, M.C., M.P., Parliamentary Under-Secretary of State for the Colonies;
Mr. M. A. YOUNG, Chief Secretary to the Palestine Government;
Mr. R. V. VERNON, C.B., of the Colonial Office;
Mr. O. G. R. WILLIAMS, of the Colonial Office;
Lieut.-Colonel Sir Francis H. HUMPHRYS, G.C.V.O., K.C.M.G., K.B.E., C.I.E., High Commissioner for Iraq;
Major H. W. YOUNG, C.M.G., D.S.O., Counsellor to the High Commissioner for Iraq;
Mr. T. H. HALL, D.S.O., of the Colonial Office;
Mr. J. R. COLLINS, C.M.G., C.B.E., Official Secretary and Financial Adviser at Australia House, London;
Mr. C. T. TE WATER, High Commissioner for the Union of South Africa, London;
Major F. F. PIENAAR, D.T.D., O.B.E., accredited representative of the Union of South Africa to the League of Nations.

All the meetings of the Commission, with the exception of part of the first, were held in private.
M. VAN REES (Vice-Chairman), in the absence of Marquis Theodoli, acted as Chairman at the first eight meetings.

FIRST MEETING.

Held on Tuesday, June 9th, 1931, at 4 p.m.

Opening Speech by the Chairman.

The CHAIRMAN (M. VAN REES) spoke as follows :

I have the honour to declare open the twentieth session of the Permanent Mandates Commission. Our Chairman, the Marquis Theodoli, who will be unable to be with us for some days for reasons of health, has asked me to make his apologies to the Commission. I am sure that all my colleagues will associate themselves with me in hoping that Marquis Theodoli may be able to join us as the beginning of next week.

I should now like to make a very brief statement on the Council's work in connection with our last session.

Thanks to the prompt distribution of the Minutes and report of that session, which terminated on November 19th, 1930, the Council was able to examine, on January 22nd, 1931, the report on the work of our nineteenth session submitted to it by M. Marinkovitch, Yugoslav Minister for Foreign Affairs.

On the invitation of our Chairman, I again represented the Commission on that occasion. The Secretariat communicated to you at the time the account of the discussions at that meeting of the Council. As usual, the Council instructed the Secretary-General to communicate to the Governments of the mandatory Powers concerned the observations of the Commission with regard to the annual reports, and to ask the Governments in question to be good enough to comply with the requests made by the Commission. It further approved the Commission's conclusions with regard to the petitions we had examined. Moreover, the Council drew the attention of the mandatory Powers to the recommendations made by us with regard to public health, and invited them to comply with these recommendations, subject to the requirements of public order and local legislation.

The report submitted by us to the Council contained a request for an interpretation of the text of the Council resolution of January 13th, 1930, relating to the general conditions required for the termination of the mandate regime in a country placed under that regime. The Council stated that the resolution referred to the examination of the general problem and not to the particular case in connection with which the question had been raised, and consequently asked us to pursue the study of the general aspects of the question. In order, however, to avoid any risk of a misunderstanding, I thought it would be as well to request that the meaning of this decision should be more precisely defined, and the Rapporteur, M. Marinkovitch, replied that the Commission was simply instructed to give its opinion on the general conditions required before a mandate can be terminated, and emphasised the fact that the question of the termination of the mandate should not be confused with that of the admission to the League of Nations of a country formerly placed under that regime. It is the first of these questions on which the Mandates Commission has been consulted, and not the second.

My colleagues will have noted the wish expressed on that occasion by Mr. Henderson, the representative of Great Britain, that the Commission should terminate its examination of this question during the present session, and I am sure that we all wish to accede to his desire.

As regards the proposal for an administrative union between Tanganyika and Kenya and Uganda, the Council noted the decision taken by the Commission last November to adjourn the consideration of this question until the British Government has communicated its decision to us, in accordance with the undertaking noted by the Council on September 6th, 1929.

As for the new Anglo-Iraqi draft Judicial Agreement, the Council adopted the conclusions at which we had arrived after studying the draft. It thus approved the text of the Agreement of June 30th, 1930, subject to the consent of the Powers whose nationals enjoyed privileged treatment under the Agreement of March 25th, 1924. According to a letter received by the Secretary-General from the British Government, dated March 21st, 1931,[1] the fourteen Powers concerned have notified their approval of the draft Agreement of June 30th, 1930, which was signed at Baghdad on March 4th, 1931, and will be put into force as soon as possible.

We had also made certain observations with regard to the administration of Iraq, and, in particular, the need of supplementing the information to hand with regard to the degree of political maturity reached by that territory. The British representative informed the Council of his intention of asking us to examine, during the present session, a special report on the progress made in Iraq under the mandate regime from 1920 to 1931. The Commission would thus be able, at the end of the present session, to draw attention to any deficiencies in the special report in question so that they might be made good at the session in November next. I thought I was justified in

---

[1] See document C.205.M.83.1931.VI [C.P.M.1143].

saying, on behalf of the Commission, that it would do all in its power to accede to this desire on the part of the British Government. You will also have noted that our Chairman has inserted in the provisional agenda of our session the examination of the special report on Iraq communicated to us on May 11th, 1931.

As our Chairman told you some weeks ago, he arranged with the British and French Governments to adjourn until November 1931 the examination of the annual reports on Tanganyika and on Togoland and the Cameroons under French mandate, which should, in the ordinary course, have been included in the agenda of the present session. I am sure that all my colleagues will approve the arrangements made by the Marquis Theodoli to lighten as far as possible the particularly heavy programme with which we have to deal.

M. Rappard noted that a special report on Iraq had been communicated to the Commission to enable it to form a general idea of the development of the territory. He asked whether the commission would make its annual observations on Iraq at this session or in November.

The Chairman replied that at the moment the only question was that of the political maturity of the territory, and that the Commission should reserve its observations on details of administration until November. This did not preclude such details being raised at the present session.

Statement by the Director of the Mandates Section.

M. Catastini made the following statement:

At the beginning of each session, it is usual for the Director of the Mandates Section to supplement the Chairman's speech by some observations relating to administrative matters and to report briefly on the progress of the principal work in hand. The Mandates Section, whose work has proceeded normally during the last six months, arranged, as usual, for the printing of the Minutes and report of the Commission's last session, which closed on November 19th, 1930. These documents were communicated to the Council on January 2nd, 1931. The members of the Commission have been kept informed of the outstanding events in the political, economic and social life of the territories under mandate by the regular distribution of official information and the most important Press news. They have also received a report of the discussion of the Council on January 22nd last and all the documents relating to this debate.

A list of the official documents (Annexe 1) sent in by the mandatory Powers has, as usual, been drawn up for each of the territories the administration of which will be examined at the present session. This list will shortly be distributed to members of the Commission.

The annual reports reached the Secretariat in the following order :

Territories	Administrative Period	Date of Receipt
Palestine	1930	May 21st, 1931
New Guinea	1929-30	May 23rd, 1931
South West Africa	1930	May 27th, 1931
Nauru	1930	May 28th, 1931
Syria	1930	June 1st, 1931

The special report of the British Government on the administration of Iraq from 1920 to 1931, which the British representative promised at the Council meeting on January 22nd, 1931, reached the Secretariat on May 13th.

The list of works on the mandates system and the territories under mandate catalogued in the League library was printed shortly after the close of the nineteenth session and communicated to the members of the Commission on February 4th, 1931.

General Questions: Present Position.

General Conditions which must be fullfilled before the Mandate Regime can be brought to an end in respect of a Country placed under that Regime.

The position of this question, which has been placed on the agenda of the session, has just been mentioned by the Chairman of the Commission.

Liquor Traffic: General Memorandum revised by the Mandatory Powers, and Delimitation of Prohibition Zones in Central Africa.

On September 1st, 1928, the Council, on the Commission's recommendation, communicated to the Powers holding B and C mandates, a memorandum drawn up by the Secretariat summarising various particulars on the liquor traffic in these territories and requested those Powers to revise the contents. A document containing these particulars, as revised by the mandatory Powers, was distributed in proof to the members of the Commission during the last session. It was circulated to the Council and the Members of the League and published in January 1931.

This memorandum reproduces in tabular form the statistical data for each of the territories under mandate. It also contains a summary of legislative measures and miscellaneous information regarding the liquor traffic in the territories under B and C mandates. During its nineteenth session, the Commission, considering that the conclusions should be drawn from the particulars contained in this memorandum which Lord Lugard had kindly undertaken to revise with the

assistance of two experts, decided to examine it during the present session. The same applies to the document containing the information given by the mandatory Powers on the subject of prohibition zones in Central Africa, in accordance with the Council's decision of September 1st, 1928.

Economic Equality: Purchase of Material and Supplies by the Administrations of Territories under A and B Mandates, either for their own Use or for Public Works.

During its nineteenth session, the Commission finished collecting the data which it considered necessary in order to supplement its conclusions on this question. This matter has been placed on the agenda of the present session.

Lists of General and Special International Conventions applied to Mandated Territories.

The lists of general and special conventions applied to mandated territories, drawn up on information supplied by the mandatory Powers in accordance with the Council's resolution of March 5th, 1928, were distributed in proof to the members of the Commission during the nineteenth session. This document consists of two volumes, one of which is devoted to general conventions and the other to bilateral conventions. The Commission, on that occasion, postponed the examination of these lists until the present session.

Statistical Information regarding Mandated Territories.

The tables of general statistics on the territories under mandate, published in 1928 in accordance with the Council's resolution of March 5th, 1928, have been the subject of several additional communications from the mandatory Powers. Moreover, with the help of the annual reports for the last three years, the particulars contained in these statistical tables can be brought up to date. The Secretariat proposes to submit to the Commission at its next session a revised version of these tables which, if the Commission desires, can be sent to the mandatory Powers for confirmation and subsequently published.

M. RAPPARD, seconded by the CHAIRMAN, congratulated the Secretariat on having succeeded in issuing the Minutes of the last session in less than six weeks, thus establishing a new speed record.

Election of the Chairman and Vice-Chairman for the Year 1931-32.

The Commission elected Marquis THEODOLI *Chairman, and* M. VAN REES *Vice-Chairman for 1931-32.*

Adoption of the Agenda (Annex 2) **and of the Programme of Work.**

The agenda and programme of work were adopted.

(The Commission went into private session.)

Appointment of Rapporteurs for certain Petitions.

The CHAIRMAN said that certain petitions, which appeared on the agenda, had arrived too late to make it possible to appoint Rapporteurs in time. Others had reached the Secretariat after the agenda had been prepared. He proposed the following appointments :

I. IRAQ.

Petition of April 20th, 1931, from M. Yusuf Malek, transmitted by the British Government on June 2nd, 1931, together with its observations (document C.P.M.1179).

As, according to the observations of the mandatory Power, the subject of this petition was already dealt with in the Rassam petition, on which M. Orts has been asked to report, the CHAIRMAN asked M. ORTS to report on this petition also.

II. SYRIA AND LEBANON.

(a) *Petitions of June 9th and 16th, 1930, signed by Inhabitants of Aleppo and Damascus respectively, transmitted by the French Government on June 4th, 1931, together with its Observations* (document C.P.M.1174).

(b) *Petition of May 7th, 1929, signed by M. Ahmed Moukhtar-el-Kabbani and other Retired or Pensioned Persons in the Lebanon, transmitted by the French Government on June 4th, 1931* (document C.P.M.1175).

The CHAIRMAN proposed M. SAKENOBE as Rapporteur on these petitions.

III. Palestine.

(a) *Communication from the Discharged Soldiers of the Jewish Battalion (38th Royal Fusiliers (1st Judeans), 39th Royal Fusiliers, 40th Royal Fusiliers and Zion Mule Corps of Gallipoli), of Haifa, transmitted by the British Government on January 23rd, 1931* (document C.P.M.1137).

(b) *Petition of December 1930 from the Arab Executive Committee, transmitted by the British Government on May 11th, 1931, together with its Observations* (document C.P.M.1169).

The Chairman proposed M. Palacios as Rapporteur on these petitions.

(c) *Memorandum of April 30th, 1931, submitted by the Jewish Agency of Palestine on the Development of the Jewish National Home in Palestine in 1930, transmitted by the British Government on June 4th, 1931* (document C.P.M.1178).

The Chairman proposed M. Ruppel as Rapporteur on this petition.

IV. Tanganyika.

Petition of October 20th, 1930, from the Indian Association of the Tanganyika Territory and Observations of the British Government thereon, dated May 15th, 1931 (document C.P.M.1164).

The Chairman proposed M. Palacios as Rapporteur on this petition.

The above proposals were adopted.

New Guinea: Examination of the Annual Report for 1929-30.

Mr. J. R. Collins, C.M.G., C.B.E., official secretary and financial adviser at Australia House, London, accredited representative of the mandatory Power, came to the table of the Commission.

Welcome to the Accredited Representative.

The Chairman welcomed Mr. Collins as the accredited representative of the mandatory Power.

He was glad to note the pains taken by the mandatory Power to reply to the questions put to it the year previously. The present report, moreover, had been extended to include various new matters in accordance with the suggestions of the Mandates Commission.

Before proceeding to the consideration of the separate chapters of the report, he would be glad to know whether the accredited representative desired to make a general statement on the position in New Guinea.

Mr. Collins said he thought the most convenient way in which he could collaborate with the Commission in the examination of the report would be for him to reply to particular questions. He added that, for several years past, accredited representatives had made general statements explaining the policy of the mandatory Power. As there was no change in that policy, he did not think he could usefully add to what already had been said.

Government Anthropologist's Reports.

The Chairman expressed the very great satisfaction of the Commission at being furnished with copies of the reports by Mr. Chinnery, the New Guinea Government anthropologist, on his exploration work. The information given by Mr. Chinnery concerning the countries he had visited and the manners and social conditions of the natives, their relations with the missionaries and with the officials and the relations between the various tribes, were of the utmost value for the Commission, by enabling it to form a clearer picture of the work that was being done by the mandatory Power in New Guinea. He was sure the mandatory Power would be ready to continue to supply the Commission with information of this character. The Commission had had the pleasure last year of hearing Mr. Chinnery in person; and he was sure his colleagues would join with him in congratulating Mr. Chinnery on his reports.

Mr. Collins said the mandatory Power would greatly appreciate the Chairman's remarks as to Mr. Chinnery's services.

He thought he could assure the Commission that information on the lines of Mr. Chinnery's report would, so far as practicable, continue to be supplied.

Map of the Native Reserves.

The Chairman observed that the map of the native reserves, which was to have been sent in illustration of the interesting particulars on this subject contained in paragraph 33 of the annual report, did not appear to have arrived.

Mr. COLLINS regretted that he could not explain why the map in question had not reached the Commission.

QUESTION OF THE ENTRY OF GERMAN CITIZENS INTO THE TERRITORY.

M. RUPPEL was glad to note, from the information supplied on page 141 of the annual report that, under the Germans Admission Ordinance, Repeal Ordinance (No. 11 of 1931), there was now no discrimination against Germans as such in respect of entry into New Guinea. That fully met the point he had made in the previous year (see Minutes of the eighteenth session, page 51).

Mr. COLLINS handed in a copy of the Repeal Ordinance in question as an exhibit.

CREATION OF A LEGISLATIVE COUNCIL: REPRESENTATION OF NATIVE INTERESTS.

M. ORTS observed that the Bill to provide for " a measure of self-government ", which was before the Parliament of the Commonwealth of Australia, had not passed through all its stages when Parliament was dissolved. Had the proposal been indefinitely abandoned ?

Mr. COLLINS said that consideration of the proposal had not been indefinitely abandoned; he could not, however, say at present when it was likely to be revived or, if and when revived, what form it might take.

M. ORTS asked what form of " representation of native interests " was contemplated.

Mr. COLLINS replied that the Bill, which had been before the Commonwealth Parliament, provided for the constitution of an Executive Council on lines similar to those of the Executive Council of Papua. There would undoubtedly be some provision for the representation of native interests: but this did not necessarily mean the inclusion of native representatives on the Council.

ORGANISATION OF THE ADMINISTRATION: OFFICIALS.

M. ORTS thought the Commission would associate itself with the thanks he wished to express to the mandatory Power for the details it had given in the annual report concerning the number of officials, their salaries, etc.

He noted from paragraph 8 of the report that there were at present six new cadets under training, while eleven had been taken into the service. The accredited representative knew that the Commission was anxious that a body of permanent officials should be set up to administer the territory, and that these officials should have been specially trained for their work and should regard it as their career. Could the engagement of these cadets or officials on probation be regarded as a partial realisation of this desire ?

Mr. COLLINS welcomed the question. He assured the Commission that it was the settled policy of the mandatory Power to attract officials who were prepared to make a career of their service, and to offer proper conditions for the purpose. That was the object of the system of cadetships.

He was in a position to give the Commission further information regarding the six cadets who were undergoing training. The training of one of them had been terminated for private reasons. The other five had entered for an examination at Rabaul in December 1930. The papers of two of them were unsatisfactory, and unfavourable reports had also been made on them by the officers to whom they were attached on probation. Their training had accordingly been discontinued. The remaining three cadets had begun the prescribed course of instruction at Sydney University in March 1931.

In reply to a further question by M. Orts, Mr. Collins said that the number of positions falling vacant in the public service during the year under review was fourteen, as compared with forty-nine in the year before. Of these fourteen vacancies, one was due to death, seven to resignation for reasons which might be regarded as normal, three to retirement owing to ill-health, and only two to dismissals as a result of unsatisfactory conduct.

M. SAKENOBE asked whether it was the policy of the mandatory Power to fill vacancies by permanent appointments. He noticed that, of the 244 classified positions in the public service, only 195 were at present held by permanent officials (paragraph 10 of the report), and about the same number in previous years.

Mr. COLLINS replied that it was the policy to make permanent appointments, wherever suitable candidates were available. But he would point out that some of the positions to which " specified period " appointments were now made were positions which would not justify permanent appointments. They might, for example, be appointments for work which was only temporary.

M. ORTS desired specially to thank the mandatory Power for the particulars supplied in paragraph 16 of the report with regard to " officers whose duties bring them in direct contact with natives ".

PUBLIC FINANCE: TAXATION OF NATIVES AND NON-NATIVES.

M. RAPPARD observed that, in reply to a suggestion that the mandate was being administered for the benefit of the non-indigenous population rather than in the interests of the natives, Mr. Casey, at the eighteenth session, of the Commission, had read a memorandum [1] in support of the financial policy pursued in the mandated territory. Mr. Casey's argument, which the Commission had not been able to examine at the time, was reproduced in the Minutes of that session. It could hardly be called convincing. To contend that the total revenue from taxation (import and export taxes, licences, etc.), less the native head-tax, represented the total revenue from taxation of the non-indigenous population could hardly be called accurate. The whole of the indirect taxes might be paid into the Treasury by the non-native population; but that did not prevent the incidence of these taxes being felt by the natives up to a certain point. The indirect taxes, especially the import and export duties, were bound to affect the commercial relations of the non-natives with the natives; the prices of everything bought from or sold to the natives and the wages paid them were all bound to be affected.

Mr. Casey went further. He maintained that the indirect taxation could be compared to a head-tax on the non-indigenous population: in order to arrive at the charge per head, he merely divided the proceeds of the indirect taxes by the number of non-natives in the territory, thus arriving at a figure of which the least that could be said was that it was arbitrary.

M. Rappard noted that in 1929, in order to assist the producers of copra, all those who employed natives were exempted from payment of the tax imposed for purposes of native education. The amounts at the disposal of the Administration for native education were thus reduced by some £5,000. The relief to the copra growers seamed thus to be given at the expense of the natives.

Mr. Casey's comparisons with the situation in Australia and with the situation in New Guinea under German rule were equally unconvincing. It was indeed astonishing that he should have thought fit to mention the subsidies granted to New Guinea by the former German Government, as the comparison with the very much smaller grants made by the present mandatory Power was by no means to the advantage of the latter.

M. Rappard asked whether the " Cancellation by the Commonwealth Government of the debt due to it in respect of the purchase of ships—£2,996 0*s.* 1*d.*" (paragraph 247 of the report) was due to any new circumstances, or was merely the result of reconsideration of the Government's policy in the matter of debt redemption.

Mr. COLLINS replied that there were no new circumstances, so far as he was aware, to account for the Government's action in respect of this item.

In regard to the suspension of the payment of Education Tax by copra-producers for the period July 1st, 1929, to December 31st, 1929 (paragraph 218 of the report), he understood that the tax had again been collected in the half-year following.

M. RAPPARD asked why the duty on cigarettes had been reduced by one-third. Was this in order to increase the yield of the duty, by increasing the importation of cigarettes ?

Mr. COLLINS said the reduction was no doubt made in the interests of the revenue.

Mlle. DANNEVIG enquired whether the " Native Hospital charges—£8,103 " (paragraph 252 of the report) were charges borne by the natives.

Mr. COLLINS replied in the negative. These charges would be paid by the employers.

EXTERNAL TRADE.

M. RAPPARD was grateful to the mandatory Power for the very full particulars supplied of the imports and exports of New Guinea (paragraphs 220-229 of the report). He wondered why France had suddenly become the principal importer of copra from New Guinea (paragraph 229).

The CHAIRMAN said that his attention had been drawn to the decline in exports to, and imports from, Australia.

Mr. COLLINS thought the explanation regarding the copra was to be found in the fact that a French line of steamers had recently begun to call at New Guinea, where they took cargoes of copra on board. As regards the diminution of the figures of trade with Australia, he explained that the diminution did not indicate reduced trade, but was due to the fact that there had been

---

[1] See Minutes of the eighteenth session of the Mandates Commission, page 56.

an increase in shipping facilities. Trade with which Australia had previously been credited was now shown as trade with the countries at which the new lines of ships called. Formerly, Australia had been merely a place of transhipment of large quantities of goods.

He added, in reply to a further question, that gold mining in New Guinea was in process of transition from alluvial to reef-mining. Some of the alluvial deposits were now largely worked out, necessitating the installation of machinery to work the reefs. That required time and capital, but there should be an increase of output later.

Agriculture and Development of Industrial Crops.

The Chairman thought the Administration might be congratulated on its efforts to induce the producers to try new crops. It was satisfactory to read that " planters generally took a greater personal interest in their plantations and that the quality of copra produced had greatly improved " (paragraph 168 of the report). The fall in the price of copra, however, was too severe to allow of any rapid improvement in the market for this commodity. This lent special interest to the statement in the report that the cultivation of rice was being tried.

Mr. Collins replied that the cultivation of rice at Sangan, Lae and Keravat was, so far as he knew, purely experimental. The Administration was responsible for the experiments.

As regards the development of rice-growing on a large scale, the Administration had to bear in mind the comparative nutritive values of other products such as maize, and also the adaptability of the natives to the different forms of cultivation. The Agricultural Department would require time before it could come to a decision on this matter.

M. Sakenobe asked what sums had been granted under the New Guinea Bounties Act in the year 1929-30. Did rice enjoy a bounty ?

Mr. Collins reserved his answer till the following day.

M. Ruppel wondered if it were wise to encourage the planting of cheap coffee such as Robusta when there was already a heavy over-production.

Mr. Collins said the position in regard to the development of coffee-planting was set out in paragraph 171 of the report. He did not think that New Guinea was at the moment in a position to undertake large scale development in the planting of Robusta coffee.

Judicial Organisation.

M. Ruppell recalled that, at the eighteenth session, Lord Lugard had asked the accredited representative whether the mandatory Power had under consideration the establishment of a court of appeal in the mandated territory. The current annual report stated on page 142 (paragraph 9 (*ii*)) that the suggestion had been noted and would receive full consideration. Had the accredited representative any further information on the subject ?

Mr. Collins said he had no information beyond what appeared in the report.

M. Ruppel observed the question was of very great importance.

He added that in considering the previous annual report the Commission had been struck by the high percentage of criminality on the part of the non-native population.

Mr. Collins pointed out that the statistics relating to prosecutions given in paragraphs 20 and 21 of the report included a large number of minor offences—for example, 12 cases of drunkenness, 25 cases of common assault, 18 cases of motoring offences, 3 cases of non-complaince with the regulations for dealing with mosquitoes and the like. All these were ordinary police offences. It should be noted that the number of prosecutions during 1929-30 was 213, as compared with 314 in the previous year.

M. Ruppel asked for explanations regarding the 29 cases of " assaulting labourers ". Did that include flogging ?

Mr. Collins said these 29 cases undoubtedly came under paragraph 57 of the " Native Labour Ordinance, 1922 ", which provides that " any person in authority who assaults or maltreats a labourer shall be guilty of an offence ". Flogging was dealt with in a separate section of the " Native Labour Ordinance, 1922 "—namely, paragraph 72.

M. Ruppel noted that 9 cases of " inflicting corporal punishment " were specified under letter (*l*) in paragraph 21 of the report.

In reply to a further question by M. Ruppel, Mr. Collins said he had no further information as to the two cases of " murder " and " wilful murder " by Europeans (paragraph 20), one of which resulted in a conviction and the other in an acquittal.

M. RUPPEL drew attention to a report in *The Times* of May 28th, 1931, of the murder of a German prospector, Herr Baum, and seven native boys on April 27th.

Mr. COLLINS said he had no precise information at the moment as to this occurrence. He could however, assure the Commission that, in such a case, the Administration would take immediate steps to apprehend the person or persons responsible.

M. RAPPARD thought the activity of the district courts was somewhat striking. Could not police officers deal with any of these cases ?

Mr. COLLINS thought that statistics of the activities of the courts in any civilised country would be very similar.

In reply to a further question by M. Rappard, he said that the law was based on the Queensland Criminal Code, supplemented by the Police Offences Ordinance of the New Guinea territory.

M. RUPPEL observed that, after the strike in the previous year at Rabaul, 200 police officers had been dismissed. Had these vacancies been filled ? What steps had been taken in the way of reorganisation of the police ?

Mr. COLLINS said that the police force had been reorganised. He handed in as an exhibit the " Police Force Ordinance, 1930 ".

He added that the school for police non-commissioned officers in Rabaul was still maintained.

Mlle. DANNEVIG asked for information as to the identity of Miss Gouey who was mentioned in paragraph 246 of the report on page 84.

Mr. COLLINS had no information.

ARMS AND AMMUNITION.

M. SAKENOBE drew attention to the statistics of the permits for firearms in force on June 30th, 1930 (paragraph 46 of the report). The number of rifles in the possession of private individuals (127 rifles) appeared to him somewhat small in comparison with the number of rifles imported (834 rifles)

Mr. COLLINS replied that the non-native population was not in the habit of carrying firearms. The balance of the imported rifles was in the hands of the Government for police purposes.

LABOUR, RECRUITING.

Mr. WEAVER thanked the mandatory Power for the answers given in the annual report to the questions he had put to the accredited representative in the previous year. These answers, in conjunction with Mr. Chinnery's full statement at the last session, had added much to the Commission's knowledge of the situation in New Guinea.

He noted with much interest that patrol officers were now given powers to inspect plantations. Inspection was of the first importance in securing the proper application of regulations. He would look forward to reading in future annual reports the information regarding the reports on the inspection of native labour conditions which were promised on page 143 of the present report.

He was glad to note that proposals were under consideration for the amendment of the Native Labour Ordinance with a view to facilitating the extension of the system of ' free ' or casual labour. Could the accredited representative give the Commission any further information on this point ?

He was also glad to note that, although it was stated that " a change of the system under which labourers are recruited for indentured service is not under contemplation ", certain provisions of the Native Labour Ordinance, including those which permit the payment of bonuses to chiefs or other natives, were now being reviewed. Experience in other territories where head-money was paid to chiefs for recruited labourers suggested that the system frequently led to compulsion in one form or another being exercised by the chiefs. It would seem, therefore, to be generally desirable that payment of head-money to chiefs should be abolished.

In this connection, he would like to refer to the statement made last year by Mr. Chinnery (see Minutes of the Eighteenth Session, page 67) that " the present price for a labourer working on the gold fields did not exceed £12 " and that " so far as the rest of the territory was concerned, the ordinary price for a three-years labourer was about £10 ". These seemed to be very high rates of head-money, and he would like to suggest that the mandatory Power should consider whether they did not inevitably give rise to the danger that measures of force and fraud would be employed in recruiting.

It would be interesting to know whether the whole system of recruiting was under review. In asking that question he would remind the accredited representative that professional recruiting

was being abolished in many territories—for example, it had been completely abolished in the Dutch East Indies.

Doubts had frequently been expressed in the Permanent Mandates Commission on the position as regards the proportion of adult able-bodied males recruited in New Guinea in relation to the total population. He therefore welcomed the statement in the letter from General Wisdom which Mr. Coleman had read last year and which was repeated on page 144 of the report to the effect that " in practice, the Administration lays down an approximate proportion of males and females that should remain in the villages, regard being had to local conditions ". Would it be possible to give in the next report details of the proportions laid down ?

Mr. Weaver noted with interest that during the year recruiters' licenses had been issued to 42 non-Europeans who were also non-natives. It would be interesting to know the nationality of these non-European non-natives. Were they Chinese ? It would also be useful to have a return of the total number of " live " licenses at the end of each period covered by an annual report, together with information as to the nationality of the licensees.

Last year he had asked whether a recruiter must report to the district officer of the district in which he was carrying on recruiting operations. It was clear from the reply given on page 143 of the report that there was no such obligation; the recruiter could report either to the district officer of the district from which he set out, or to the nearest district officer on his route, or to the district officer of the district where he intended to recruit. It was obvious that these provisions were designed to facilitate the recruiters' operations in a country in which communications were difficult, but it did not seem altogether satisfactory that a district officer should not have complete supervision over the recruiting in his own district.

He had two questions to put with regard to the conditions of labour. No reply was given to Lord Lugard's remarks last year on the long period of the contracts. It would be interesting to know whether the question of shortening the period had been considered again.

In reply to a question he had asked last year, it was stated in paragraph 39 that arrangements had been made for special inspections of vessels carrying natives whose period of service under contract had expired. These inspections were for the purpose of ensuring that natives were transported to within a reasonable distance of their homes.

It would be interesting to know whether the Administration considered these measures adequate to meet the complaints that were made in the newspaper article referred to last year, that natives were robbed and even killed by the people of other villages through which they had to pass on their way inland from the coast.

Finally, the report gave the number of indentured labourers on plantations. Could the next report give the same information for mines ? Could it be assumed that the difference between the number of indentured labourers employed on plantations and the total number, represented the figures for the mines—namely, about 10,000 ?

Mr. Collins reserved his answer for the following day.

SECOND MEETING.

Held on Wednesday, June 10th, 1931, at 10.30 a.m.

New Guinea: Examination of the Annual Report for 1929-30 (continuation).

Mr. Collins, accredited representative of the mandatory Power, came to the table of the Commission

Labour, Recruiting (*continuation*).

In reply to Mr. Weaver's questions, Mr. Collins wished to deal *seriatim* with the points raised.

He quite agreed that the inspection of plantations was of first importance and had no doubt his Government would see that the Mandates Commission was furnished periodically with reports of such inspections.

With regard to the second question, that of " free " or casual labour, it had to be borne in mind that the natives of New Guinea were only once removed from the Stone Age. The task of

the Mandatory in lifting these people to the point where they could withstand the strenuous conditions of the mechanical age of to-day was a long process and, until the condition of the natives became such that they would not suffer by outside competition, it would seem that the Government of the Commonwealth of Australia must maintain the indenture labour system. Of course, the Australian Government appreciated that the application of this system presented many difficulties and afforded loopholes for abuse, but he thought an examination of the cases tried before the courts of New Guinea would prove most clearly that even minor breaches of the Labour Ordinances were rigorously punished.

Mr. Weaver had referred to the proposed changes of the system under which labourers were recruited for indentured service. While, of course, Mr. Collins could not anticipate any of the proposed changes in the Native Labour Ordinance, he felt certain that the question of the bonuses to chiefs would be most carefully reviewed. It must, of course, be appreciated that certain inducements had to be offered to the chiefs of villages to obtain their co-operation in the matter of securing the necessary labour for the economic development of the territory. Here, again, he would point out that the strictest supervision was exercised in the matter of negotiations between chiefs and recruiters.

As regards the price paid for labourers, on first inspection of the figures given by Mr. Chinnery, these might appear high, but the Mandates Commission was well aware of the difficulties associated with penetrating the hinterland of New Guinea and with its topographical features. These rendered operations most difficult. The recruiters frequently had to go many miles into the interior, over rugged country, passing through dangerous lands where there were no lines of communication and where the only means of transport was that of native carriers. He felt sure that it was unnecessary to point out that these conditions were responsible for heavy expenditure, and it was safe to assume that, by the time the labourer reached his place of employment (bearing in mind the adequate and careful provision which must be made for his transport), no undue portion remained of the ten pounds or other sum which the recuiter received from the employer.

Mr. Collins passed next to the question of the proportion of the number of adult able-bodied males recruited to the total population. This subject had already been dealt with in the annual report, and he could not add usefully to what had been said there.

Mr. Weaver would remember that on a previous occasion a definite assurance had been given to the Mandates Commission that the nationality of the " non-European, non-native recruiters " was not Chinese. Mr. Collins quite agreed that an annual return of the total number of " live " licenses appeared desirable, and he would bring this point to the notice of his Government.

The reporting of a recruiter to district officers was very strictly enforced, but here, again, also the topography of the country had to be borne in mind; with this of course, was wrapped up the question of communications. Under the existing ordinances it was impossible for a recruiter to avoid making the required official report. Mr. Weaver very rightly understood that the work of the recruiters must not be surrounded with too many difficulties, and Mr. Collins personally thought that so long as the recruiter reported to someone in authority and complied with the provisions of the law, the Administration could scarcely lay down any hard-and-fast rule that might not only place unnecessary obstacles in the way of the recruiter but might even hamper the Administration itself.

In connection with the question of the transport of natives to places which were within reasonable distance of their homes, the Commission could rest assured that they were taken to points which were convenient to their villages. The conditions under which they were transported were of the best and the steamers carrying them were required, under the Native Labour Ordinance, to provide accommodation suitable for the tropics.

Their passage from their late employer's place of residence to a point adjacent to their villages was arranged under conditions which left little room for improvement. In view of the elaborate arrangements made in respect of the main portion of the journey the Commission could, he thought, rest assured that the Administration, so careful in other respects, did not omit to see that the obligation to repatriate the native was duly and safely completed. Of course accidents happened, such as the case mentioned in the newspaper article to which Mr. Weaver had referred. But this was certainly not a general happening and could be taken as an isolated incident.

Mr. Collins had noted Mr. Weaver's request for figures as to indentured labour in the mines. His Government would, he felt sure, attend to this matter in later reports.

Continuing, Mr. Collins said he would like to supplement his specific replies to Mr. Weaver's questions with a brief statement on general labour questions. He said that the fair treatment of the natives was one of the outstanding features of the administration of New Guinea. This was the result, not merely of the obligation imposed upon the Commonwealth of Australia by the mandate, but also of the feeling, on the part of Australians in general, that it was due to themselves that principles of humanity should be recognised. Australians regarded the care of the natives as a sacred trust. It was not surprising therefore that forced labour, which was allowed by the mandate for the purposes of essential public works, was forbidden by the Mandatory under all circumstances.

In considering what was good for the natives, the conditions in which they were found were of supreme importance. Not long ago, the native had been engaged in continual warfare. The hand of one tribe was against its neighbour; battle, murder and sudden death were in evidence everywhere; and now the native was forbidden to fight. The dreadful occupation of continual

war having been brought to an end, some occupation of a peaceful nature must be found for him. If he had nothing to do, he would sink further and further into degradation, and his last state would be worse than the first. Idleness could lead to nothing but degeneration, and the only substitute was to be found in work. Here another difficulty arose, in that the native had a natural abhorrence of most forms of manual labour. Even under present conditions, when it had been explained to him that he could greatly improve his food supply by weeding and by other work on a plantation, it was found that he would work only while his actions were watched by an overseer. It was often the experience of the inspectors that, as soon as the overseer's eye was removed, the native would cease to carry on work to increase the variety and the quantity of his food supply. In short, he would not, of his own volition, even put his hand out to help himself in this vital matter of the necessaries of life.

Occupation for the native being of paramount importance, those to whom his care had been entrusted must discover a system which, while giving the largest possible amount of freedom, would induce the native to engage in employment, and to sustain his effort in that direction. The best system that had been devised, so far, was that of indenture labour. It was not a system that could safely or even properly be applied to an advanced people, but for the leisure-loving and idle native of New Guinea that system was a necessity. Under the indenture system, it had been fully demonstrated that the lot of the native of New Guinea was by no means an unhappy one. From village conditions, which often were insanitary and comfortless, from conditions of life which often provide foods lacking in essential qualities, and from circumstances of superstition and strong liability to horrible diseases, he was removed to conditions in which he found excellent shelter, good food, medical attendance and protection against the world. The appearance of the native as he was before recruitment, and his appearance afterwards, were two very different things. All who had had experience of the indenture system agreed that, almost immediately after the native began work on a plantation, his physical condition improved to a most remarkable extent. It had been well said that, in their villages, the natives were seen at their worst; on the plantations, at their best.

The Commonwealth Government was fully seized of the abuses that might creep into the indenture labour system, but was at great pains to prevent them. A close and continual watch was kept upon the activities of recruiters. When rumours reached the authorities that recruiting offences had been committed, even in the distant and savage parts of the territory, a patrol was sent out to make enquiries, and if the rumours had been well founded, the offenders were arrested and severely punished. Indeed, the oversight of all the conditions of the employment of natives was continually being carried on, and no detail of the labour conditions escaped notice. This was why the annual reports contained references to breaches of the labour conditions; and the Mandatory claimed that the record of proceedings in the courts was to be taken, not as justifying any allegation of widespread breaches of the law, but as showing the activity of the authorities in finding these breaches. The Mandatory was determined as far as possible to stamp out offences against the Labour Ordinances, and to protect the labourer to the utmost.

The CHAIRMAN asked whether Mr. Weaver was satisfied with this reply or whether he wished to ask any further questions. In the latter case, it should not be forgotten that the Australian Government had the particularly delicate and thankless task of administering a very large country of which the geographical position gave rise to serious administrative difficulties and of which the population was still very backward.

Mr. WEAVER replied that he had not ignored the conditions prevailing in New Guinea and he greatly appreciated the efforts of the Australian Government to improve labour conditions. He had asked his questions with a view to ascertaining whether any further improvement was possible. He was sure the Australian Government desired to do everything it could to accord fair treatment to labour.

In expressing his thanks to the accredited representative, he said that the Australian Government was not alone in its belief in the value of long-term labour contracts, especially when dealing with backward races. When advocating free labour he had not wished to imply that the indenture system should be abolished. This system might have to continue for a number of years. He was glad to note Mr. Collins' statement that the sums received by recruiters were largely intended to cover overhead charges.

Mr. COLLINS was glad if his reply had given satisfaction to Mr. Weaver. He realised that the latter's questions were of great importance and he regarded them as constructive criticism for which the thanks of the mandatory Power were due.

With regard to "free labour", he read the following extract from a letter written in April 1929 by the Australian Government to the Secretary-General of the League [1]:

"Under the provisions of the existing Native Labour Ordinance, it is permissible to employ as day labourers only those natives whose customary place of residence is within

[1] See *Official Journal*, August 1929, pages 1281-1282.

twenty miles of the place of their employment, but such day labourers may not be employed continuously for a period longer than three months.

"It is proposed to make provision in the new Native Labour Ordinance, which is now being prepared, for a native to work continuously as a day labourer without signing a contract, provided that his home is within a prescribed distance from the place where he is employed.

"In prescribing the distance from home at which a native or a group of natives may be permitted to work as free labourers, the stage of civilisation reached by the particular native or group of natives will be taken into consideration. Natives who have reached a comparatively high stage of civilisation and are able to safeguard their own interests and to care for themselves will be permitted to work at a greater distance from their homes than those who are not so self-reliant."

Mlle. DANNEVIG said she had listened with great interest to the accredited representative's statement regarding indentured labour. She pointed out that the population of the territory was 400,000 of which, presumably, 100,000 were able-bodied men. She was struck by the statement that, out of this number, 30,000 men were under the indenture system. This was an enormous proportion, especially in a country which, as the accredited representative had stated, was only one step removed from the Stone Age. She wondered if this high proportion was not harmful and if "the strenuous conditions of the modern world" quoted by the accredited representative might not be interpreted as due to the very severe demands made by the Europeans on the labour of the natives.

Mr. COLLINS, in reply, referred to page 24 of the annual report, which showed that large numbers of the labourers were recruited in their own districts. For instance, in New Britain, 5,993 out of a total of 6,686 were recruited in the district; in Morobe 3,081 out of 4,084; in Madang 2,596 out of 4,249; in Kieta 2,268 out of 3,098.

Count DE PENHA GARCIA pointed out that the civilising efforts of the mandatory Power involved an obligation on the part of the native to work. This obligation clearly did not imply that forced labour must be introduced, but even under other systems there were possibilities of abuses. These systems might give rise to very serious objections if imposed by the civilised Powers through the intermediary of the native chiefs. The responsibility of the Powers was thus diminished under conditions which might well give rise to criticism. He asked Mr. Collins (1) what degree of authority the chiefs had over the natives and (2) whether the indenture system had been harmful from a social point of view. In connection with the second question, he asked whether the absence of the men had had any effect on the increase in the population or on the system of family life.

Mr. COLLINS replied that the authority of the native chiefs varied in different tribes. Generally, the authority of the chief was derived from his personal influence and was usually the result of his having shown particular bravery in defending the village. There were no hereditary chiefs. Sometimes the influence of the chief was acquired through certain rites and ceremonies.

In some cases, especially in the more civilised parts of New Britain and New Ireland, the chiefs sat as judges in respect of minor offences committed by natives. The natives were being encouraged to take a more active part in the administration.

He regretted he could not give more information.

Count DE PENHA GARCIA asked whether any studies on native customs had been made either by private persons or by the Government.

Mr. COLLINS replied that many investigations had been conducted unofficially, especially by the missionaries. The most important official investigations had been made by Mr. Chinnery, who had written six reports containing much detailed information. He believed these were in the possession of the League Secretariat.

The CHAIRMAN remarked that the accredited representative could not be expected to give detailed replies immediately to all Count de Penha Garcia's questions. He therefore asked that these questions might be examined so that, if possible, replies might be given in the next annual report.

Mr. COLLINS said he would bring the questions to the notice of his Government, whose policy was to supply all the information it could collect.

The CHAIRMAN stated that the next chapter of the report to be discussed was "Freedom of conscience". As, however, two members had been absent at the previous meeting, he would like first to give them an opportunity of asking questions on the subjects already discussed. Moreover, he had understood at the previous meeting that Mr. Collins was prepared to supply further information on the economic life of the country and the movement of trade.

EXTERNAL TRADE *(continuation)*.

Mr. COLLINS recalled that M. Sakenobe had asked two questions at the previous meeting. The first question referred to the amount of bounty paid on products exported from New Guinea

to Australia in the year 1928-29. He was sorry this figure was not available. He would, however, obtain the information, not only for that year, but for each year since the bounty system was instituted.

The reply to the second question, whether rice was included in the bounty system, was in the negative. From information given in the appendix to the report on the year 1926, it appeared that bounties were paid on the following products: cocoa beans; cocoa shells; fibre (manila and sisal hemp, coir); sago; vanilla beans; bamboos and rattans; unground spices (*viz.*, nutmegs, mace, pepper, cloves, ginger); ground spices; kapok.

M. SAKENOBE thanked Mr. Collins for this information.

TAXATION OF NATIVES AND NON-NATIVES *(continuation)*.

Mr. COLLINS reverted to M. Rappard's comments of the previous day concerning Mr. Casey's statement with regard to the incidence of taxation on natives and non-natives, which was reproduced on page 56 of the Minutes of the eighteenth session. He had refreshed his memory by re-reading Mr. Casey's statement which he thought was most helpful.

He might remind the Commission that Mr. Casey's statement was only made after the mandatory Power had already announced (see page 65 of the report of 1928-29) that, in its opinion, it was not possible to estimate the relative incidence of taxation on the native and non-native population. Mr. Casey thought it might be of assistance to the Commission to indicate the direct incidence of taxation on the two classes of the population.

It was open to M. Rappard to criticise Mr. Casey's statement as inadequate. The reply of the mandatory Power to that criticism was simply that any further analysis was impossible, and not likely in the circumstances to be helpful.

M. RAPPARD appreciated the difficulty of the problem and Mr. Casey's goodwill in dealing with it, though he thought the latter's method was unfortunate and his conclusions far too dogmatic. Mr. Casey had thrown no light on the relative contributions of natives and non-natives to the revenue from taxation, but only on the direct payments made by each of the two elements of the population. M. Rappard agreed that the problem of the true incidence of these payments was not susceptible of an exact solution. But Mr. Casey had reasoned as if there were no repercussion of the taxes from those who paid them on those by whom they were ultimately borne.

MISSIONS. — EDUCATION.

M. PALACIOS said that, on pages 104 and 105 of the report, some interesting information was given regarding the activities of the missions and their distribution in the territory. Nevertheless, the report did not contain details which the Commission had the right to expect—for example, the communication which the mandatory Power had promised to send regarding collaboration between the missions and the Administration, the distinction between the industrial and commercial activities of the missions and their work of evangelisation. Nor had the Commission received the report of the Commission of Enquiry mentioned in paragraph 303. This Commission had been set up as a result of the incidents which had occurred in Kieta, and had been instructed to enquire into the questions of the occupation and use by the missions of lands belonging to the natives; the Commissioner instructed to enquire had sent recommendations to the Government on the subject, but it did not appear that the latter had taken any action as yet.

Mr. COLLINS said he had no further information as to the matter of the land in the Kieta district.

He assured the Commission that the relations between the missions and the Administration were both intimate and cordial. Most of the active collaboration was connected with the medical work of the missions. The Administration supplied the missions with drugs, etc. He would, however, draw his Government's attention to the point raised by M. Palacios.

M. PALACIOS observed that almost all the expenses incurred in connection with the education of the natives were still borne by the missions, and that the Administration did not seem to be contemplating the possibility of granting them a subsidy. In the McKenna report a specific proposal in this sense was made (see page 129, letter (*f*) of the annual report). The missions also did medical and agricultural work.

Could the accredited representative give some information regarding the present attitude of the mandatory Power to the question of giving subsidies and help to the missions ?

Mr. COLLINS replied that the missions were not anxious for Government assistance.

The Government would insist, in relation to any educational grant to the missions, on the teaching of English. To this the missions were opposed. Nor did he think the missions would welcome Government inspection.

He did not forsee any change of policy in this connection in the near future.

M. PALACIOS explained that he was not in any sense pleading the cause of the missions, but only asking for information. It was known that the missions had had difficulties both with the whites and with the natives though adequate explanations had not been given to the Commission. Could more information be given in the next report ? Would it perhaps be feasible to ask the missions themselves to state their views ?

Mr. COLLINS replied that any suggestion of asking the missions to state their own views would involve a very important issue which, so far as he could see, would have to be discussed elsewhere. He reminded the Commission that the reports of the mandatory Powers were based on lines laid down by the Council of the League.

Even a suggestion to the missions to submit reports might be misconstrued and held to infringe the all important principle of freedom of conscience.

Mlle. DANNEVIG pointed out that missions had frequently made reports in other mandated territories, and the mandatory Powers had transmitted extracts from those reports to the Commission.

She wondered whether the reason why the missions were opposed to English as the language of instruction in the schools was ignorance of English on the part of the missionaries themselves, for instance, in cases where the missionaries were not British.

Mr. COLLINS said that was not the reason. Those missionaries whose natural tongue was English were equally opposed to making English the language of instruction: and nearly all the missionaries, whatever their mother tongue, spoke English well.

He pointed out that the Commission had had before it the important report of the Conference between the missions and the Administration which was held in 1927. The Commission could not therefore be said to be without information as to the attitude of the missions.

The CHAIRMAN thought that the discussion turned on two questions:

(1) Why were the missions opposed to English as the language of instruction ? He imagined that neither the Commission nor the accredited representative had precise information as to the motives of the missions' opposition. Possibly the missionaries felt that it helped their work to teach in the vernaculars.

(2) Would it be possible to have reports from the missions ? He agreed with the accredited representative that the missions could not be asked to report to the Mandates Commission.

M. PALACIOS explained that the missions could not send reports to the Commission but to the mandatory Power. This question had nothing to do with freedom of conscience but, on the contrary, would tend better to safeguard that freedom.

The CHAIRMAN thought that in any case it was a matter which must be left to the mandatory Power. If the latter thought it advantageous to obtain reports from the missions, it would ask for them.

Mr. COLLINS said that, in regard to the views of the missionaries in the matter of language, he might quote the following resolution which was adopted by the Mission Conference of 1927:

> " That the Conference is of opinion:
>
> " (1) That, while the Administration and the missions may be successful in teaching English to a limited number of selected natives in a few advanced schools, the practical difficulties of imposing so advanced a language on the rank and file of so primitive a people are so great that it would not be practicable to introduce English as a universal language for the territory within a reasonably short time.
>
> " (2) That, in view of the large number of languages or dialects in use amongst the people, and the fact that, while group languages are being used by the missions such group languages apply to strictly limited areas and a number of such languages would be required, it would not be practicable to adopt any native language as a universal language for the territory.
>
> " (3) That as pidgin English is already widely known throughout the territory and as, moreover, its construction and grammar correspond closely with those of native languages, and while its primitive and ' pidgin ' character would make it undesirable that it should be adopted as the official language of the territory, this language will probably continue to be of the greatest practical use throughout the territory and it will improve probably with the passage of time through many additional English words being introduced into its vocabulary."

Count DE PENHA GARCIA observed that the British Administration in Africa had succeeded in reducing the number of native languages from something like 600 to 36 or 37. Perhaps something of the same sort might be possible in New Guinea. The ideal—perhaps not immediately realisable—would be to have a single language, whether English or one of the native languages.

In any case, he would like to see more information in the next report as to the agricultural work of the missions. What was the extent of the land which the missions cultivated ? The Commission already knew the total area under cultivation by the missions, but he would like to have particulars as to the area cultivated by each mission.

Secondly, did the missions use indentured labour ? If so, what were the terms of the labour contracts ?

Thirdly, what was the effect from the point of view of education, of the agricultural work of the missions on the natives in the vicinity ?

Mlle. DANNEVIG observed that Mr. McKenna, in his report on the educational system of the territory (page 27 of the annual report) was strongly in favour of English as the language of instruction. On the other hand, if she rightly understood him, Mr. Collins was in agreement with the missionaries.

Mr. COLLINS said this was a misunderstanding. He was not in agreement with the missionaries on this point. He had read, but he had not identified himself with, the resolution of the Conference on the point.

He might add that, while the Commonwealth Government accepted Mr. McKenna's report " as the basis of the future educational policy of the territory " (page 27 of the annual report), that did not mean that it agreed in detail with everything Mr. McKenna had said.

Mlle. DANNEVIG said that it seemed that the language difficulty was the chief obstacle to co-operation between the missions and the Administration. Was not some *modus vivendi* possible to end the deadlock ?

Mr. COLLINS pointed out that Mr. McKenna had not recommended any direct relations between the missions and the Administration for educational purposes. What Mr. McKenna had done was to put forward a scheme for primary schools in all populous centres, with English as the language, and the Government had given a general acceptance to his scheme. Such was the answer of the mandatory Power to any charge of neglecting education in New Guinea.

He welcomed Mlle. Dannevig's constructive criticisms which the mandatory Power would regard as both friendly and useful.

M. RUPPEL observed that the annual report contained for the first time a mention of two medical missionaries (paragraph 82). One of these was a practitioner in the service of the Lutheran Mission at Finschhafen who " had applied for registration which had not been completed at the close of the year ". He hoped no difficulties had arisen owing to the nationality of this doctor.

Mr. COLLINS assured M. Ruppel that practitioners attached to the missions would receive a welcome in New Guinea.

M. SAKENOBE asked for information in the next report as to the religious side of the activities of the missions such as the number of churches, the number of adherents, male and female, and the number and nationalities of the missionaries themselves. He observed that the annual report (pp. 104 and 105) gave almost exclusively information on the educational and agricultural activities of missions.

Mlle. DANNEVIG said that the Commission welcomed Mr. McKenna's report on education in the territory, though the situation revealed by it was serious enough. The attitude of certain elements of the European population in regard to native education was very strange, and Mr. McKenna deserved credit for his courage in drawing attention to it. It was to be hoped that, in course of time, there would be a change in the attitude of these people.

Mr. McKenna's suggestions, if put into effect, would no doubt improve matters. They could not, however, be put into effect unless the Administration made the requisite funds available. Education was at present financed by a tax of 12/– payable by employers of native labour per head of their employees. Mr. McKenna pointed out that this source of revenue was quite inadequate. Furthermore the employers had been exempted from this tax for half a year from July 1st, 1929, to December 31st, 1929. This had reduced the revenue available for native education from this source from £12,402 to £7,118. There was, however, still a balance of some £6,500 available for education. She would like to have the assurance that the whole of this sum, as well as the annual taxes, would be devoted to education purposes.

She also pointed out that there were said to be some 30,000 indentured labourers. Should not a tax *per capita* on these yield more than £12,402 ?

Mr. COLLINS said that, in the view of the Administration, Mr. McKenna's statement that the non-official whites in the territory were hostile to native education was an exaggeration. Such opposition to native education as there was came mainly from those planters who felt they did not get sufficient return for the tax they paid in respect of their employees.

In any case, the policy of the mandatory Power in regard to native education remained unchanged. He did not think there was any prospect of changes in the system of the education tax.

He could assure Mlle. Dannevig that the whole of the balance of £6,529 3*s*. 6*d*. would be used for education and for education only.

Mlle. DANNEVIG remarked that the question was asked last year whether the district officers encouraged the children to attend school or discouraged them from doing so. In the present report (page 144), it was said in effect that the district officers did not encourage the children to

attend school. But the question was, did they discourage them ? Even if the district officers could not enforce education at the schools could they not point out its benefits to the natives ?

Mr. COLLINS replied that the idea that district officers discouraged the children from attending school originated with a missionary who, at the 1927 Conference, had quoted a case of a district officer who had taken children from school to work in their village. He suggested that this was an isolated incident.

The question was discussed at the Missions Conference of 1927, and the view taken was that it was not possible to instruct district officers to take any action in the matter.

He had, however, been advised that the question of legislation on education in general, and the question of compulsory education in particular, was under consideration.

THIRD MEETING.

Held on Wednesday, June 10th, 1931, at 3.30 p.m.

New Guinea: Examination of the Annual Report for 1929-30 (continuation).

(Mr. Collins, accredited representative of the mandatory Power, came to the table of the Commission).

MISSIONS. — EDUCATION (*continuation*).

M. SAKENOBE expressed his appreciation of Mr. McKenna's report on education in the mandated territory, and referred to the general principle on which special stress was laid in that report—namely, that the Government should have direct control over education or be able to satisfy itself that schools not under its control were being efficiently conducted. Mr. McKenna had suggested, as part of a comprehensive scheme, the establishment of elementary schools and training colleges for natives. At present, education was mostly in the hands of the missions. M. Sakenobe would like to know whether the Administration had some general plan with a view to carrying out Mr. McKenna's suggestions. No doubt money would be needed. He enquired, first, whether there was any plan for procuring funds and, secondly, what initial steps, if any, had been taken to exercise direct control over education in the missions.

Mr. COLLINS stated, in reply to the first question, that, in conformity with Mr. McKenna's suggestions, a plan existed for the elementary education of natives including compulsory education. In reply to the second question, Mr. Collins said that no steps had been taken to control mission education.

M. SAKENOBE pointed out that Mr. McKenna's report had emphasised the importance of controlling the education given in the missions. He expressed the hope that negotiations would be opened for this purpose.

Mr. COLLINS took note of the suggestion.

LIQUOR TRAFFIC.

Count DE PENHA GARCIA noted that there was no increase in the liquor traffic. Presumably the liquor was consumed by the whites; if so, the figures for consumption per head seemed to be rather high.

Mr. COLLINS stated that liquor was consumed by all races except the indigenous population —that was to say, by Europeans and Asiatics, including Chinese. He informed Count de Penha Garcia that neither European nor native breweries or distilleries existed.

Count DE PENHA GARCIA noted that the alcoholic content of liquors was not given, on the pretext that they were imported in bottles. This difficulty had been overcome elsewhere in the simplest possible way. A few bottles chosen at random had been tested. The figures given showed merely how many gallons had been imported, whereas he would like to know the average alcoholic content. He noted, further, that the duty paid on spirits under proof strength and over proof strength was the same, and suggested that there might be some distinction according to the

alcoholic content. Perfumed spirits might lend themselves to fraud, being subject to a much lower tariff. He referred also to the Ordinance of August 29th, 1922, mentioned in document C.608. M.235.1930.VI on the liquor traffic in territories under B and C mandates. This ordinance prohibited the import of spirits unless they had been matured for not less than two years. How could the Administration satisfy itself on this point ?

Mr. COLLINS explained that the tariff provided a certain rate of duty for spirits of proof strength or less than proof strength. For spirits of greater strength, the rate per gallon was applied in accordance with the percentage above proof. This technical point was determined by the use of Sykes' hydrometer.

Count DE PENHA GARCIA observed that in other territories the importer had to make a declaration, which could be checked.

Mr. COLLINS replied that this was the case also in New Guinea.

Count DE PENHA GARCIA pointed out that it was possible for the Mandatory to give the alcoholic content. The Council had taken a decision concerning statistics of the liquor traffic in mandated territories and the Commission was asking the Administration to give not only the quantity in gallons but also the alcoholic content.

Mr. COLLINS said this would be brought to the notice of the Administration.

The CHAIRMAN pointed out that the League of Nations document to which Count de Penha Garcia had referred was the outcome of a request made by the Council to Mandatories and that the Australian Government had sent a reply.

Count DE PENHA GARCIA hoped that it might be found possible to comply with the Commission's request.

Mr. COLLINS proceeded to elucidate the tariff point just raised. Under Ordinance 41 of 1922, the New Guinea import duty on spirits not exceeding proof strength was 20/- per gallon. For spirits exceeding proof strength it was 20/- per *proof* gallon. That Ordinance was still in force, except that the rate had been increased from 20/-to 30/-.

Count DE PENHA GARCIA asked that a definition of " proof strength " might be given in the next report.

Mr. COLLINS took note of this request.

PUBLIC HEALTH.

M. RUPPEL expressed his appreciation of the very full information given on public health and the good progress made. He noted that there was little change in the expenditure (about £68,000) but that the number of staff had increased from 52 to 61. How had that been done without extra cost ?

Mr. COLLINS thanked M. Ruppel for his appreciative remarks and suggested that, while reference to the salary list might possibly afford an explanation, this question might perhaps be dealt with in the next report.

M. RUPPEL noted the frequent changes in personnel; on page 141 of the report, it was stated that there had been 39 such changes recorded during the last four years. He felt, too, that the service must suffer from the absence of the Director.

Mr. COLLINS agreed that continuity of service was desirable. He felt that Dr. Brennan's absence on leave was of direct value to the territory in that it afforded opportunities of conferring with other medical men.

M. RUPPEL expressed his approval, in view of the high infant mortality rate, of the scheme for the establishment of a chain of infant welfare centres (page 32 of report). He asked for information regarding the position of the centre near Rabaul.

Mr. COLLINS was not sure if active operations had been begun, though the plans for that centre had been ready at the end of last year.

M. RUPPEL wished the scheme every success. He expressed his concern at the leprosy position, which he regarded as very disquieting. New cases and small foci had been discovered in nearly all parts of the territory. There were two leper colonies which maintained an average of over 100 patients throughout the year.

Mr. COLLINS stated that the Public Health Department was fully aware of the gravity of the situation and that it was neglecting no measure to arrest the progress of the disease.

M. RUPPEL enquired whether the mosquito prevention service existed only in Rabaul where the work seemed to be done with great success or whether it was being extended, particularly to European centres.

Mr. COLLINS stated that he was unable to say definitely, but he was fairly certain that the matter was being given attention.

M. RUPPEL asked that more details might be given in the next annual report.

Mr. COLLINS said that this request would be noted.

ALIENATION OF LAND.

M. RUPPEL pointed out that a passage on page 22 of the report appeared to imply a criticism of the previous Administration, with reference to the alienation of land. He wished to draw the attention of the accredited representative to the fact that wide tracts of land were already in the hands of foreigners when the Administration was established. In 1914, the whole area in the possession of the whites was about 185,000 hectares—that was to say, far less than 1 per cent of the total area of the territory. The German Administration had already proclaimed native reserves, with a view to protecting the indigenous population.

Mr. COLLINS did not interpret the paragraph as implying any criticism of the German Government. Over-alienation might have occurred under the military occupation or the mandate. There could be no possible suggestion of any invidious comparison.

M. RUPPEL expressed his satisfaction. He enquired what was meant by resumed land.

Mr. COLLINS explained that resumption of land was effected by Government proclamation. On resumption, possession of the land in question ceased to rest with the owner and it became available for occupation. He stated further, in reply to M. Ruppel, that the dispossessed owner was compensated adequately.

DEMOGRAPHIC STATISTICS.

M. RAPPARD expressed his approval of the way in which the population statistics were given —namely, with the proper limitations and reservations. He referred to a difficulty mentioned in Mr. Chinnery's report, concerning the reluctance of native women to come into contact with the authorities, and enquired whether the Administration proposed to adopt Mr. Chinnery's suggestion that a lady anthropologist should be attached to his staff.

Mr. COLLINS stated that he had no knowledge of the Government's intentions in the matter.

CLOSE OF THE HEARING.

The CHAIRMAN, speaking in the name of the Mandates Commission, thanked the accredited representative for the goodwill he had shown when replying to the questions which had been put to him. The Commission much appreciated this friendly collaboration, which was essential for the accomplishment of its task. He was glad to note the calm and serene atmosphere in which the discussions had taken place. Nevertheless, this must not be taken as a sign that the Commission was taking less interest in the affairs of New Guinea. There was no such diminution in its interest, nor would there be in the future. The fact that the number of questions raised by the Commission had been relatively small proved, in his view, two things. In the first place, it showed that the annual reports on New Guinea had steadily improved to such an extent that in the last there had been many less gaps than in previous ones which it had been necessary to fill in during the actual discussions. Secondly, the past discussion had indicated much more clearly than previous information had done that the Commonwealth Government had decided to do all in its power to fulfil its rôle of guardian, a very delicate and, it must be said, thankless duty in connection with a territory which was so cut up and so backward as New Guinea. The Chairman felt it his duty, on behalf of the Commission, to express his satisfaction and to offer his congratulations to the mandatory Government.

Mr. COLLINS thanked the Chairman and the members of the Commission very sincerely for their appreciation of the New Guinea report. It had been a great pleasure to him to attend the meetings. He had come in a spirit of collaboration, feeling that it was his duty to give the Commission any useful information. The Mandatory's work was important in that it was carried out for the benefit of humanity. He repeated his thanks to the Chairman and to the Commission for the kind way in which they had listened to him.

Nauru: Examination of the Annual Report for 1930.

PUBLIC HEALTH.

M. RAPPARD said that he had read the report with great interest and found it most illuminating. Medical assistance appeared to be very well organised and he had the impression that the whole territory might be described as a well-appointed nursery. He wondered, however, how all this could

be done at a comparatively small cost, and quoted the figure of £2,800 odd for medical services and the small item of £380 for the upkeep of the hospital and leper station.

Mr. COLLINS explained that the lepers were not all helpless. In the lazaret, food was put over a fence and the lepers themselves prepared it. Other lepers, again, had occupations and were only in receipt of periodic treatment.

M. RAPPARD, referring to the incidence of leprosy, as shown on page 13 of the report, noted that, in 1924, nearly 20 per cent of the inhabitants were afflicted with leprosy to such a degree that they had been segregated. In 1920, there had apparently been no lepers at all. Had there actually been an increase in the disease or could that apparent increase be explained by the fact that the situation had not been examined before.

Mr. COLLINS explained that, despite exhaustive research, no very definite opinion had been formed as to why the disease had suddenly stricken the Nauruans. About the time of its incidence, one or two Pacific islanders suffering from leprosy had come to Nauru, but these infected persons had been returned to the islands from which they came. About that time, too, a serious influenza epidemic of 100 per cent incidence had weakened the vitality of the people. Beyond that, no scientific conclusion had been reached.

M. RUPPEL noted that leprosy was not mentioned on page 10 in the list of causes of death, and that, on page 12, it was stated that the deaths in the leprosy station were not due to leprosy. He enquired what the explanation might be.

Mr. COLLINS explained that the absence of deaths was due partly to the mildness of the disease and partly to the excellent treatment provided.

M. RUPPEL, comparing this situation with the percentage of deaths in New Guinea, considered this statement both of interest and of importance, and hoped that modern treatment might be successful in suppressing the disease.

Count DE PENHA GARCIA congratulated the Mandatory on the results achieved in connection with baby health centres, and enquired just what medical care was implied.

Mr. COLLINS said that the Administration would certainly supply details on this point.

ALCOHOLIC LIQUORS.

M. RAPPARD noted that there were only 100 adult Europeans in the territory, as only 100 paid poll tax. When compared with this, the figures relating to the imports of alcoholic beverages were very high. Perhaps (as in New Guinea), the Chinese helped to account for these figures, it being understood that the natives were absolutely debarred from consuming intoxicating beverages.

Mr. COLLINS stated that the Chinese were not prohibited from drinking liquor in moderation, but they were under strict discipline and were not permitted to indulge unduly in alcohol.

Count DE PENHA GARCIA noted the increase in the average consumption of spirituous liquors and alcoholic beverages. Here the value of statistics was apparent.

LABOUR. — JUSTICE.

Mr. WEAVER expressed his gratification at the decrease in the number of Chinese—totalling 15 only—who had had to be repatriated on account of unfitness, and also at the amount of deferred pay transmitted to China. He enquired the nature of the offences referred to on page 18 of the report, under the heading of Breaches of Ordinances.

Mr. COLLINS read the following statement:

"*District Court.* — There has been a slight decrease in Chinese cases and an increase in Nauruan cases:

1929				1930			
European	Chinese	Nauruan	Total	European	Chinese	Nauruan	Total
5	442	26	473	1	357	77	433

"As on the occasion of the district court proceedings during 1929, very few serious cases were dealt with during 1930. Beyond the Opium and Liquor offences, 29 and 4 respectively, and the 3 cases of breaches of the Leprosy Suppression Ordinance, the remainder were mostly of a minor nature.

" Petty thieving amongst the Chinese totalled 133 as against 185 in the preceding year. Breaches of the Public Health and Sanitary Ordinances and the Chinese and Native Labour Ordinances totalled 83 and 46 respectively, as compared with 65 and 62 respectively in the preceding year.

" Careful watch is maintained to guard against breaches of the Health and Sanitary Ordinances. The offences during the year consisted mainly of ' committing nuisances, hoarding rubbish and filth '. The offences under the Chinese and Native Labour Ordinance mostly comprised the use of naked lights, endangering property, dirty premises, selling rations, failing to observe conditions of contract of service.

" The continuity of work on the island was seriously interfered with, owing to the severity of the westerly storms during the year. Inability to carry out regular work has been a contributing factor in respect of the offences committed during the year. Coloured races when not fully employed usually get into mischief. (Possibly this may also apply to persons of all races)."

M. SAKENOBE, referring to the central court cases mentioned on page 17 of the report, enquired whether the eleven Chinese were concerned with affairs known to the Mandates Commission.

Mr. COLLINS replied that the eleven Chinese in question had been concerned in quarrels which had already been reported to the Commission.

EDUCATION.

Mlle. DANNEVIG expressed her admiration of the educational system, which provided for compulsory education from 6 to 16 years, an additional vocational course for boys and girls and continuation lectures for grown-up people, but wondered at the cost being so low (£1,300). She enquired whether the teachers were all natives.

Mr. COLLINS quoted, in reply, a passage from the 1928 report to the effect that the educational staff at the native schools were all " educated Nauruans ". The European school was under European teachers.

Mlle. DANNEVIG asked whether the education was efficient, what was the after-life of pupils on leaving school at the age of 18, and what occupation they would obtain.

Mr. COLLINS stated that he was unable to give any information on post-school occupations, as the system had not been in operation very long. It was impossible as yet to ascertain how boys and girls would adapt themselves. The idea was that they should be trained to occupy positions under the Administration so far as available.

Mlle. DANNEVIG supposed that they had not to work in the mines.

Mr. COLLINS stated that the happy circumstances in which Nauruans found themselves did not necessitate their seeking employment in the phosphate mines. They were not debarred from such work, but it was actually carried out by the Chinese under contract. The Nauruans followed such agricultural and business pursuits as were possible. The outlook of these educated boys and girls was by no means clear.

Mlle. DANNEVIG was very glad to have this information. It was gratifying to find that one island remained which might be kept as a remnant of happiness in the South Sea Islands, as an earthly paradise for the natives.

REPORT AND ACCOUNTS OF THE BRITISH PHOSPHATE COMMISSION.

Mr. COLLINS presented the report and accounts of the British Phosphates Commission, for the year ending June 30th, 1929.

FOURTH MEETING.

Held on Thursday, June 11th, 1931, at 10.30 a.m.

Syria and the Lebanon: Examination of the Annual Report for 1930.

M. de Caix, former Secretary-General of the High Commissariat of the French Republic in Syria and the Lebanon, accredited representative of the mandatory Power, came to the table of the Commission.

Welcome to the Accredited Representative.

The Chairman was glad to welcome once again M. de Caix, accredited representative of the mandatory Power.

He was sure his colleagues would greatly appreciate the close co-operation established between the Commission and M. de Caix, which had greatly facilitated its work.

The annual report for 1930 appeared to be very complete. It gave valuable information in regard to the administration of the mandated territory, as well as detailed replies to the questions put to the accredited representative at the eighteenth session. The Chairman was sure his colleagues would wish to express their satisfaction and appreciation.

M. de Caix, who had just returned from a visit to the mandated territory, would perhaps make a general statement before the Commission started its examination of the annual report.

General Statement by the Accredited Representative.

M. de Caix: " After what has already been said here so often, and after the High Commissioner's comments last year on the Organic Law which has just been promulgated, there is no need for me to make a very long statement. The report sums up the political situation accurately and clearly. Before replying to your questions, I will therefore confine myself to drawing your attention to several points noted during my tour which took me into the territories recently handed over to Syria by Turkey—that is to say, as far as the eastern extremity of the States under French mandate.

You will doubtless be wondering what effect the world crisis has had on the countries under French mandate. It has certainly had some effect, but not so great an effect on the population as in the countries where the economic life is more developed. The peasant, who is in the majority, is accustomed to living, to a very great extent, on what he produces. His usual food consists of pounded wheat, and flat cakes made from flour produced at home. The recent harvests have been good, and, if he does not sell his grain, he eats it. Doubtless, he has some difficulty in obtaining money to buy the piece goods and other articles which he consumes but does not produce. This consumption is greatly reduced, and many of those who know the fellah say they have never seen him look so well.

The decrease in purchasing power affects the towns from which the fellah is accustomed to obtain his supplies. Trade is certainly passing through a crisis, but life in this somewhat improvident country does not seem to have slowed down materially. There have never been so many motor-cars in use.

The crisis does not appear to have affected the development of the country. I was struck by the increase in cultivation and in tree plantations, especially in the territory of the Government of Latakia which is particularly carefully administered. There is everywhere a feeling of security, and new land is being cleared.

This feeling is to be observed in particular in the north-east of the mandated territory, where a large number of immigrants are arriving from Turkey. I do not refer particularly to the Armenians, for there are no longer many Armenians in Turkish territory. I visited several Armenian villages in Upper Djezireh, however, and noted that development was in full swing and that the surrounding land was well cultivated. On the other hand, a number of Kurds from the area to the north and east of the Tigris have moved towards the territories recently handed over to Syria. Villages which were formerly empowerished are being repopulated and even over-populated. The people appear to be active and to have an aptitude for agriculture and a desire for tranquillity. They will not be allowed to intrigue with their neighbours on the other side of the frontier against public order in the neighbouring countries.

From the political point of view, I found Syria—or at any rate the minority which has hitherto taken an interest in political questions—awaiting the treaty which has been mentioned on several occasions, in particular, in Article 116 of the Syrian Constitution. There seemed to me to be a certain amount of anxiety on the part of the minority groups. They expressed fears as to their fate under the regime which would follow the termination of the mandate in regard to which they are of necessity anxious, since Iraq is near and the hopes and fears current there react on Syria. I was questioned, especially in Alep, as to guarantees on behalf of the minorities during the period

immediately after the termination of the mandate. As you might suppose, I gathered no such impression in the Lebanon or in the Latakia Government, where the regime is not in question and where every guarantee is given to the groups which do not constitute the majority throughout the whole of the mandated territory. My statement would not, however, be complete if I did not draw your attention to the state of mind of the minorities to whom I could only give general assurances as to the spirit of the Syrian laws to be enacted in application of the Syrian Organic Law.

The nationalist leaders, who belong for the most part to the Mussulman majority, maintain the hopes and attitude of which you have already heard. At the same time their personal relations with the French continue to be good and they continue to hold the same theory as to the mandate and the country's relations with the mandatory Power. They desire the mandate system to be replaced by a treaty under which Syria would be able, so far as possible external difficulties are concerned, to obtain the guarantees which are at present provided by her relations with France, but they do not desire that treaty to control in any way the internal affairs of the country. In this attitude there is some contradiction, for responsibilities should have a counterpart; this state of mind will necessitate very careful handling. The attention of those Syrians who are interested in political matters is therefore concentrated on the treaty question and they await with much curiosity the draft texts to be drawn up as a result of the mandatory Power's investigations.

In the Lebanon the situation is quiet. The Constitution is working without any serious difficulty. I noted, however, that there was a good deal of complaint as to the expense of the system and the inadequacy of the administration. This discontent is often evinced in the circles which insisted most on public liberty. In those circles some people complain to-day of the discretion with which the mandatory Power avoids interfering in the working of the public authorities and the administration, which appears to the Mandatory to be in accordance with the evolution of the mandate, manifested in the Lebanon by the 1926 Constitution.

This state of mind has not, however, led to any agitation, but the same cannot be said of the hostility against the foreign companies distributing electricity and operating the Beirut and Damascus tramways. In the statement I am making here on my return from the Levant, I must refer to this matter, although it relates to events subsequent to the year to which the report refers. Newspaper reports will certainly have attracted the attention of the members of the Commission to this matter.

The Beirut and Damascus tramways and electric services were boycotted. At Alep, which is quieter, there were merely certain discussions and adjustments of the rates. Finally, in view of the situation with which they were faced, the companies concerned suspended the operation of their tramways at Beirut and Damascus.

The causes of this movement were complicated. The avowed cause was the dissatisfaction of the public using the tramways, which desired, as in all countries, to have the benefit of the public services at the lowest possible cost. It may be that there was some reason for the claims made by the users of the tramways, but they should also have appreciated more clearly what it cost to run them. An understanding would no doubt have been reached in the matter, and the companies made concessions, but unfortunately the political factor intruded itself. In certain cases the local notables were opposed to the companies. Boycotting committees were organised of which elements, actuated by systematic opposition to the companies as being foreign, rapidly assumed the ascendancy. When a committee was prepared to reach an understanding, it found itself confronted by more unaccommodating ringleaders who prevented any kind of agreement. In this way the stoppage of the tramway services continued. The latest information suggests that matters are in a fair way to be settled, but the movement leaves behind it an impression which can only do harm to the country, where the need of the import of foreign capital and foreign initiative for development, which is only in its initial stages, continues to be felt.

It is interesting to note, in connection with the application of the Organic Law [1] promulgated last year, the recent meeting of the Conference of Common Interests established by the Law, which did not confine itself to consolidating institutions already in existence or operative over a number of years past. The management account of the Common Interests was submitted to the Conference for consideration, as provided by the Organic Law.

The CHAIRMAN thanked M. de Caix for his statement, and invited the comments of the members of the Commission.

POLICY OF THE MANDATORY POWER AS REGARDS THE POLITICAL DEVELOPMENT OF THE TERRITORY UNDER MANDATE: ESTABLISHMENT OF A TREATY REGIME AND POSSIBLE INFLUENCE IN THE TERRITORY OF THE EVENTUAL EMANCIPATION OF IRAQ.

M. RAPPARD observed that it was proposed to establish a treaty system in order to give the national elements the same satisfactions which the neighbouring mandatory Power seemed ready to give to the populations it administered in Iraq. On the other hand, the report indicated the administrative defects existing in the Lebanon which already enjoyed relatively complete internal liberty. The educational value of liberty consisted, generally speaking, in the fact that it compelled those who enjoyed it to suffer the consequences of their incapacity. From the political standpoint,

---

[1] See document C.352.1930.VI.

the great moral advantage of liberty was that it developed a sense of responsibility. The course of events itself brought to light the effects of imprudences committed, whether those effects took the shape of external dangers, financial disorder or even complete collapse.

M. Rappard thought, however, that the present system gave the natives the material advantages of liberty, while at the same time depriving them of the moral benefits ordinarily attaching to liberty, since the mandatory Power made itself responsible for security against external dangers and the inhabitants of the mandated territory were not compelled to consider that question. It appeared also that the mandatory Power ensured that the financial disorder did not exceed certain limits. He asked M. de Caix whether that was really the system in the minds of the authors of the Covenant when they had instituted the mandates, and whether a serious danger was not involved in encouraging liberty without its corresponding responsibilities.

M. DE CAIX replied that there could be no question now of going back on the methods followed from the outset, which were in accordance with the idealism inspiring all post-war policy in France, at Geneva and, in general, elsewhere.

It was true that it might be asked whether, instead of setting up political liberties at the outset, it would not have been better to leave the question of political organisation for a time and begin with a period of administrative training, educating the intelligent young officials of the country (of whom there were a number who had passed through the higher educational establishments) under a small body of French administrators, who would gradually have been eliminated as their pupils rose to the highest posts in the hierarchy. Such a system would no doubt have been better than administration by high officials recruited from a staff accustomed to the old administrative failings of the country. But it was no use saying " One might have done this or that ", or expressing regrets which could not be other than academic in the light of developments, the origins of which dated to a period before the mandate itself.

M. Rappard had asked whether those who made mistakes suffered the consequences of their mistakes. That was not so to the extent that it would be in a western country at the present day. The political power in Lebanon, which possessed a constitutional regime, and in Syria—in so far as it was in the hands of local notables, belonged to a class which did not appear to take a share in the public burdens in proportion to the share it would have to assume in a western democracy. That situation was the result of social conditions which had already been described more than once to the Commission in explaining the position of a large section of the rural population and the system under which it cultivated the soil. The mistakes of the public authorities did not therefore affect, as much as elsewhere, the classes from which were recruited the beneficiaries of the public expenditure.

As regards foreign affairs, the local governments did not yet realise their difficulties, since the Mandatory was there to avert the dangers which might arise. That point was inadequately appreciated by many of those who took advantage of the protection given by the Mandatory without ceasing to complain of the latter.

M. RAPPARD gathered that it would appear from the information supplied to the Commission that the Constitution benefited those who were responsible for its operation at the cost of the great mass of the population. Yet the Constitution operated under the protection of the mandatory Power !

M. DE CAIX observed that the country benefited rather than the Mandatory, since the latter had to contend with every kind of difficulty.

M. RAPPARD agreed. He wondered, however, whether it had not been possible for the abuses which had been noted to arise and to be perpetuated precisely because of the presence of the Mandatory. Without the guardianship of the mandatory Power, those abuses would have led to the complete collapse of the system.

M. DE CAIX admitted that, so far at any rate, the Mandatory's control had largely consisted in establishing and maintaining budgetary equilibrium.

Count DE PENHA GARCIA remarked that M. de Caix had referred to the possible effects in Syria of the announcement of the impeding cessation of the mandate in Iraq. M. de Caix had described the apprehensions felt by the minorities in this connection and the expectations of a certain proportion of the majority. The majority would like to see the disappearance of the whole of the internal control for which the mandate provided, the mandatory Power retaining only a certain responsibility in regard to the defence of the country against dangers from outside.

Count de Penha Garcia enquired whether those various tendencies were likely to exercise an important influence as regards the shortening or extension of the mandate.

M. DE CAIX pointed out that these tendencies might make it advisable to take certain precautions for the period after the mandate had ended, but said that they would probably not influence in any way the date of its termination. As a matter of fact, the question of the period of the mandate was not entirely governed by considerations relating to the actual situation of the countries placed temporarily under the mandate system. Whatever opinion one might have on the problem itself and on the time that might reasonably be required for its solution, the latter was largely influenced by the evolution that was taking place in most of the neighbouring countries. Certain disparities would rapidly become impossible, especially as they would not be justified by any inferiority on the part of Syria and the Lebanon.

As regards the minorities, the accredited representative could only say, as he had already observed in his statement, that they were uneasy; it would be an illusion to imagine that the general atmosphere and the feelings of the different elements of the population towards one

another had changed completely in the short space of some twelve years. A state of mind existed in the territory which was the result of age-long habits. No doubt the minorities were greatly exaggerating matters in anticipating violence and bloodshed. But it was not possible to prevent their being apprenhensive lest, after the termination of the mandate, they should find themselves in the state of inferiority in which they had had to acquiesce for centuries. Only a favourable experience of the new regime, extending over a certain period, could dissipate such fears. But whether the minorities were right or whether they were wrong, and whether or not guarantees were desirable, the normal evolution towards emancipation of the territories now under mandate could not be arrested.

M. RAPPARD observed that he had been very much perplexed when reading the report. The Organic Law was very liberal. The mandatory Power, it was said, had reserved to itself only such rights as were necessary to ensure public order, should that be seriously threatened. It had restricted its own rôle, in order to allow the Syrians as complete and progressive a development of their liberty as possible. The question now under consideration was the substitution for that regime of a treaty regime, which, in the view of the mandatory Power, constituted a still more advanced stage of the mandate. If, however, the mandatory Power had already reserved to itself only a minimum influence and right of intervention, what powers would it retain if it went further ? The question arose then as to whether the example of Iraq was not influencing the policy of the mandatory Power in the matter. M. Rappard could not find in the report any internal reasons which would justify such a policy.

M. DE CAIX pointed out that the evolution of the Mandatory's policy in Syria and the Lebanon was determined by facts which went far beyond the example of Iraq. That policy had been announced long enough ago to remove any doubt on the point. The Administration was dealing with the results of a tendency which did not date from yesterday, and which was not confined to any single country of the East or even to the whole East; it was a tendency affecting the mentality of Europe also.

How, moreover, was it possible to reconcile the Syrians, more of whom had had a Western education, to the idea that they must renounce indefinitely all hope of having a system similar to that which, it appeared, was to be accorded to Iraq ?

The mandatory Power had reserved to itself minimum rights of intervention, but that minimum, as expressly laid down in Article 116 of the Syrian Constitution, applied to the period of the mandate, not beyond.

M. RAPPARD read the following passage from the letter from M. Henri Ponsot, the High Commissioner, to M. Briand:

> " The article will remain in force until the conclusion, with a properly constituted Government, of the treaty which will re-define, with the consent of the League of Nations, the conditions governing the application of the mandate, in accordance with Article 22 of the Covenant, so as to take into account the progress made."

M. DE CAIX regretted that that sentence, which was reproduced in the report, might possibly be misinterpreted and convey the idea that a treaty could cover only the period of application of the mandate. The treaty might be framed so as to cover another period in which the ex-Mandatory's responsibilities would be reduced, and the rights reserved by the ex-Mandatory could therefore be reduced in proportion. Article 116 of the Syrian Constitution had been framed exactly with reference to the Mandatory's responsibilities. It thus provided only for those responsibilities of the Mandatory which arose from the Charter of 1922, and not necessarily for its duties under the regime that might follow. In practice, the question that might arise was that of determining how a mandate might be concluded and how the requirements of which it was the expression might still influence the regime that was to follow.

M. RAPPARD pointed out that the above-mentioned passage was found both in the letter from M. Ponsot to M. Briand and in M. Briand's letter to the League of Nations.[1] Its terms must, therefore, have been very carefully weighed.

The CHAIRMAN said that he had an impression that a slight misunderstanding had crept into the discussion. In the case of Iraq, Great Britain had concluded with that country in 1922 a treaty called Treaty of Alliance which, in practice, replaced the mandate, the latter term being considered objectionable by the Iraqi. It was only in June 1930 that an Anglo-Iraqi Treaty had been concluded, which was intended to replace that of 1922, since it would not come into force until Iraq was admitted as a Member of the League of Nations. The Chairman had understood that in the case of Syria also a political evolution was contemplated, falling into two stages, the first of which would be governed by the treaty referred to by M. Ponsot in his letter, and which would maintain the mandatory regime. Later, when, under the regime of the first treaty, conclusive results had been obtained, it might be possible to conclude a treaty on the lines of the Anglo-Iraqi Treaty of 1930—that was to say, providing for the regime to succeed the mandate.

M. DE CAIX was unable to give details concerning the scope of a text which had not yet been prepared. A treaty to be applied under the conditions mentioned by the Chairman might

---

[1] See document C.352.1930.VI.

be framed in various ways. It might simply provide, in agreement with the representatives of the country, for the exercise of the mandatory obligations. It might apply not only to the period of validity of the mandate, but also to the period following, and might provide for the necessary machinery during the transitional period. Lastly, it might contain provisions applicable only to the period following the mandate and might come into force only on the conclusion of the latter.

M. Orts pointed out that the exchange of views which had just taken place did not suggest any fresh possibilities to anyone who had had occasion during the last ten years to observe the internal situation in Syria and the evolution of the mandate. The apparent prospects in that country were exactly what the authors of the Covenant and of the mandate had desired to avoid when they insisted on advice and assistance being given to the country by a Mandatory until such time as it was " able to stand alone ".

To imagine that this condition was realised at the present time would be a mere illusion. At its eighth session the Permanent Mandates Commission had directed the Council's attention to the difficulties encountered in the application of the mandate owing to the inertia and incapacity of the native organisations, the inadequacy and class egoism of the elements in power, and the state of social and economic dependence of the masses of the population. The events of the last few years had not yet made it possible to revise that opinion. The Syrians who aspired to govern their country without control, still required to give proof of their fitness to fulfil the less difficult task devolving upon them under the mandatory system. Present circumstances, however, appeared to be leading the mandatory Power more and more to relax its influence and the mandate, it seemed, was to be concluded before the expiration of the time laid down. Complete emancipation was thus to precede political maturity.

Such a result would imply a renunciation of the purpose of the mandate and the failure of the system. It would not mark the beginning of an era of prosperity for Syria. Would not external insecurity, the subjection of racial and religious minorities and financial disorder be the price paid for the political independence claimed by the land-owning class, upon whom the Syrian fellaheen was dependent ? Would it not be too much to expect that minority, henceforth in possession of unrestricted power, to carry out the social and agrarian reforms which constituted an essential condition for the functioning of a representative regime and the conclusion of the oligarchic system ?

Any progress in Syria must require the maintenance, for some time longer, of a certain influence and control by the mandatory Power. The removal of that influence would involve a grave responsibility for the mandatory Power proposing it and for the League of Nations.

M. de Caix observed that it was impossible to prophesy: it was a question of an experiment and no one could foretell the results of that experiment, even by a reference to the various factors —reassuring or the reverse—which would come into play. Keeping, however, to known facts, it might be noted that the finances could not be said to be in disorder: so far, the budget had always been balanced and there had as a rule even been an excess of revenue. Those sound budgets would no doubt be unable to resist for long the prodigality of weak Governments in the face of the various demands, and the local authorities must themselves supply the restraining influence hitherto represented by the necessity for obtaining the High Commissioner's sanction. That was one of the disturbing prospects of the present evolution.

External security would in no way be lessened under the regime of a treaty replacing the mandatory regime, a treaty under which the ex-mandatory Power would continue to lend its assistance to the country in the event of danger from without.

It was impossible to foresee as yet the extent to which the rights of minorities would be guaranteed under the regime of a treaty the clauses of which were not yet decided.

M. Orts had expressed the view that the agrarian reform would not be carried out if the mandate came to an end; perhaps one ought not to be too categorical on this subject. Certain new ideas had got abroad during the past twelve years among the masses, and fresh perspectives had opened up before them. Various urban elements not belonging to the class of big land-owning notables might aim at a political career, promising to support agrarian demands. An evolution appeared inevitable; the question was to determine the conditions under which it was to take place, the regulating power from without—under the mandatory system—having disappeared or having at all events been very largely eliminated.

It would not be true to say that the policy followed by the mandatory Power was influenced solely or even primarily by the example of Iraq. It had been thought out long ago and was based on profound considerations. M. de Jouvenel had made a statement in 1926 which had been confirmed by M. Ponsot's promise and his statements made last year. It was the logical outcome of the ideas which had prevailed throughout the post-war period, ideas which were widespread all over Europe and not only in France. Those ideas were reflected in the attitude of the European Powers in regard to Asiatic problems other than those with which the Mandatories were faced in the Levant. Moreover, the mandates, it must not be forgotten, had a certain purpose in view; they were intended to teach the countries to whom they were applied how to govern themselves. It might or might not be thought that that purpose could be regarded at present as having been achieved; it might or might not be feared that a fully autonomous Government in those countries was still bound to be far distant from the ideal which the authors of the Covenant had in view and that it would be more to the detriment than to the advantage of the population concerned, but it should occasion no surprise to discover that the policy of the mandatory Power was not at variance with so general a trend of ideas.

The Chairman agreed in substance with M. Orts' observations. He fully realised the influence that might be exercised over the state of mind of the Syrians and more particularly over that of

the ruling classes by the measures contemplated in regard to Iraq. He observed, however, that there were certain important differences between the two countries. In Syria the number of educated persons was said to be much greater than in Iraq. On the other hand, Iraq already possessed parliamentary experience extending over some years, with a complete political equipment, a stable Government, Chambers, etc. In Syria, where representative regime was not working, parliamentary experience was completely lacking.

The Chairman had visualised the policy of the mandatory Power in Syria as being somewhat on the following lines: first, an Organic Law would be established; the working of that Law would then be ensured by means of elections and the convening of a deliberative assembly; then the system would be allowed to operate until the mandatory Power declared that the territory was developed sufficiently to enable it to govern itself, that being an essential condition for admission as a Member of the League of Nations.

M. DE CAIX said that he did not wish to express any views on the position of Iraq. He suggested, however, that the difference between the situation of that country and that of Syria might be more formal than profound, and that Syria might be capable of ensuring the operation of a parliamentary system of the same standard as that found in the neighbouring country. It must not, in any case, be forgotten that a Constitution based on modern models had been operating for the past five years in the Lebanon without, it was true, satisfying all the Lebanese, but without encountering serious difficulties. The difference was probably not as great as it had appeared to the Chairman. It must be remembered that the territories under French mandate possessed more schools than the neighbouring territories, and three universities at which large numbers had qualified for diplomas, after passing examinations based on curricula similar to those found in the West. That fact explained many of the claims that had been made. It was not possible in Syria, any more than in the neighbouring countries, to start again from the very beginning. It might be that the stages suggested by the Chairman would be desirable, but it was necessary to take into account the change of atmosphere to which M. de Caix had just referred and of which one very important stage had been marked by the Organic Law promulgated last year.

M. RAPPARD referred to the fact that the Chairman, when emphasising the differences between Iraq and Syria, had mentioned that Iraq had had longer parliamentary experience. Two further points must also be considered. Account must be taken on the one hand of the administrative unity of Iraq and the division that existed in Syria; on the other hand, a very small military force was maintained by Great Britain in Iraq, whereas in Syria the mandatory Power had a very considerable force of occupation. The expenditure on that item amounted to 300 million francs. Were those two facts such as to justify the maintenance in Syria of a different regime from that contemplated for Iraq ?

M. DE CAIX pointed out that it was not correct to say that the size of a military instrument necessarily determined the extent of the operations for which it could be employed. An examination of the figures, moreover, would show that the number of French forces stationed in Syria was very moderate. He did not think that a comparison of those forces with the British forces in Iraq could be used to establish a difference between two policies.

The contrast between the unity of Iraq and the political division of the territories under French mandate was not significant of a situation requiring different policies. Obviously, as was shown by the Organic Law promulgated last year, it was not the Mandatory's intention to force the autonomous Governments, which had been in existence for close on eleven years, to be subject to the authority of the Syrian Government. It had been explained on several occasions—on the last occasion by M. Ponsot—that the relations to be established must depend upon the free consent of the different populations themselves. There was nothing in that to prevent the French Government from concluding an agreement with Syria and indeed with the Lebanon, those being the States which, under the Organic Law, possessed all the constitutional organs necessary for their independent existence.

M. RAPPARD pointed out that the mandatory Power would always have the minorities to defend, both the minorities within the country and those living in the neighbouring territories, in regard to which the Syrian patriots had already voiced their claims.

M. DE CAIX agreed that the minorities problem called for consideration in Syria, where it was, indeed, particularly important, as the numbers affected would be further increased by the exodus from Anatolia; the same problem applied, however, to Iraq.

M. RAPPARD had meant that the present Syria was surrounded by territories which, when she was emancipated, she would no doubt wish to annex. Would not that imply for the ex-mandatory Power, which would have to defend the liberty of Syria's neighbours, duties quite different from any that Great Britain might have in Iraq ?

M. DE CAIX did not think that the resulting situation would be more difficult. The Organic Law provided for powers to be exercised over the territory of Syria and not in that of the neighbouring States and Governments. A treaty between Syria and France would not alter the situation in any way, and the relations between the two countries ensuing from that treaty would merely have the effect of making Syria seek to establish, by means of agreements, such links as she might wish to institute with those neighbouring States and Governments, which would themselves maintain relations with the Power now holding a mandate to administer them. Any attack by one of those States on one of its neighbours was less likely to occur in such circumstances than in any other situation.

M. RAPPARD agreed, provided the mandatory Power remained in a position to protect the neighbours of the present State of Syria—that was to say, the Druses, the Alaouites, the Lebanese, etc.

M. DE CAIX replied that France would certainly exercise the rights and duties arising out of the treaty, but he could not define them before the treaty had been drawn up. Moreover, the question of minorities, as certain precedents and certain discussions appeared to show, did not concern only the Mandatories and local governments at the moment when a change in the legal nature of their relations was under preparation.

M. MERLIN pointed out that, during the discussion, several speakers had advised the mandatory Power not to be in too great a hurry. He would like to make a remark on this point and perhaps ask the accredited representative a question. It was certain that the Near Eastern countries would, after a longer or shorter period, be capable of claiming their independence. This was a question with which the Commission would soon have to deal in connection with Iraq and, later, for other territories under mandate.

M. Merlin would be glad if the accredited representative would explain his point of view on one point. M. de Caix had said that there was one fact which had necessarily to be taken into account in the administration of Syria—namely, that Iraq appeared likely to acquire complete independence in the near future. *Si parva licet componere magnis*, the events of 1789 and the revolution of 1848 had been felt throughout Europe. They had been a matter of concern for both monarchical and democratic countries. In the same way neither Syria, nor the mandatory Power could remain indifferent to the events taking place in Iraq, though not from any need to imitate them and, so far as the mandatory Power was concerned, not from any desire to show itself no less generous than its neighbour, but because the populations of the country were still affected by the results of the events in question, and because, if the mandatory Power was disposed to temporise too long, there was a danger that it would find itself at odds with an excited public opinion, and perhaps obliged to face more serious difficulties amounting even to disturbances. Similar cases had been seen even in the strongest monarchies. It was a *de facto* situation which the mandatory Power had to take into account.

When M. de Caix spoke of the repercussion of measures to be taken in respect of Iraq, did he refer merely to the mandatory Power's anxiety not to appear less generous than the neighbouring mandatory Power, or was he alluding to a state of over-excitement which might arise in Syria and the neighbouring countries and which the mandatory Power would have to take into account ?

M. DE CAIX could only repeat that it would appear morally difficult not to grant to Syria similar treatment to that given to Iraq. There might be differences of detail in the stages passed through and in the treaties to be concluded, but it would be impossible to refuse to grant in one case what was considered possible in the other. The League of Nations was free to decide what attitude it would adopt towards the question, but it would appear that that attitude could not be essentially different in the two cases. The League's recommendations might, moreover, be useful in respect of the rights which it wished to guarantee when the changes with which the Commission was rightly concerned were about to take place.

Opposition of Certain Political Parties to the Provisional Syrian Government.

M. PALACIOS wished to ask a question on general policy before the Commission entered on the detailed examination of the report. He pointed out that in 1930 a certain opposition to the Government had been displayed, not only by the Nationalist Party, but also by certain other parties for example, the Moderate group of the United Parties. Could the accredited representative supply some information on this opposition movement ?

M. DE CAIX pointed out that the opposition in question had been directed not against the mandatory Power but against the Syrian Provisional Government. The origin of this movement group could, no doubt, be found to a great extent in the very natural desire of each party to be in power during the period preceding the elections and the establishment of the permanent Government.

In reply to a further question by M. Palacios regarding the suspension of newspapers, in particular, the *Istiklal*, M. de Caix stated that the Press was subject to local legislation adopted by the Governments of Syria and the Lebanon. There was no doubt that the authorities of the States tended to use the weapons at their disposal in order to suppress the attacks of their political opponents.

Special Services in the Levant.

The CHAIRMAN thanked the mandatory Power for the information supplied on pages 45-47 of the report on the reorganisation of the Intelligence Service. He added that he Commission would be glad to obtain the text of the High Commissioner's Decree, No. 3390, of December 31st, 1930.

M. DE CAIX said he would endeavour to communicate the text of this decree to the Commission during the afternoon or on the following day.

M. ORTS, referring to details regarding the Intelligence Service supplied during the examination of the annual report for 1929, recalled that the accredited representative had pointed out the value of this Service from the point of view of the Mandatory's responsibility.

Since that time a reform of the Service had been initiated with a view to bringing it more into line with the general administrative organisation, and M. Orts noted that civil officials had been introduced into the Service, the staff of which had hitherto been exclusively military. He would like to know if the statement on page 47 of the report took into account the civil elements introduced into the organisation.

M. DE CAIX replied that this nomenclature applied exclusively to officers of the Special Services and did not take the civil elements into account. The civil officials who were required to fulfil duties hitherto performed by intelligence officers did not form part of the Special Services. The name and the statute of these services had been adopted in order to define and organise, on fresh lines, the relations of the officers composing them with the High Command and the High Commissariat.

M. ORTS asked whether the civil elements of the Special Services would not increase the Secret Service.

M. DE CAIX observed that the Secret Service was in quite a different position. It did not constitute in any way, an advisory or Supervisory branch of the Administration of the country. It controlled suspects and looked out for subversive acts which it reported to the authorities.

M. ORTS also noted a tendency to reduce the effectives of officers attached to the Special Services. They were in fact less numerous than in the previous year.

M. DE CAIX replied that this was due to the general reduction in the European military staff and their replacement by civilians. This reduction was not to be taken as a reflection on the work done by officers employed on civil duties. Their interest in the population, their perspicacity and, it must be added, their good humour rendered them invaluable in distant and difficult posts for which it would not be easy, or at any rate would take a long time, to recruit civil officials. Their duties, especially on the Turkish frontier, were often very arduous. In addition to their work connected with political supervision, they had to encourage the direction of municipal improvements, sanitation, and the planting of young trees, etc. This activity rendered their isolation bearable. Their number had decreased, especially in the Central Services. In certain distant and difficult posts, on the other hand, the number might have to be increased.

ASSISTANCE TO REFUGEES.

The CHAIRMAN asked the accredited representative if he could inform the Commission whether there was at present an influx of new refugees. It appeared that they continued to arrive in the mandated territory. On page 50 of the report there was a reference to " the menace of smallpox on the Turkish and Iraqi frontiers at the time when the tribes change pasture land and an exodus of refugees takes place ". Did this refer to optants arriving from districts exchanged with Turkey or to other refugees, and was there a considerable number of these newcomers ?

M. DE CAIX replied that Christians continued to leave Turkey for Syria, but this movement was naturally declining as the supply was now practically exhausted. As he had mentioned in his statement, there was a fairly considerable immigration of Kurds into the region known as Bec de Canard. There were no refugees coming from Iraq.

CONFERENCE OF COMMON INTERESTS.

M. ORTS asked where the Conference of Common Interests was held and by whom the Governments had been represented.

M. DE CAIX replied that there had been too little time between the Conference and his departure for Geneva for him to be able to obtain any details. It was held at Beirut at the office of the High Commissioner, who looked after common interests, and it was probably presided over by the Secretary-General.

The delegates of the Governments were partly high officials, possibly Ministers and Directors, and partly technical experts, in accordance with the provisions of the Organic Law for the Conference of Common Interests, issued in 1930.

As he had remarked in his statement, the Conference was required to examine the management accounts of the Service of Common Interests.

APPLICATION OF ARTICLE 116 OF THE SYRIAN CONSTITUTION.

M. RAPPARD asked whether there had been any occasion so far to apply Article 116 of the Syrian Constitution.

M. DE CAIX pointed out that it had been unnecessary to have recourse to this article as it referred to the time when a Government, originating from the working of the Constitution

promulgated last year, would be in existence. The safeguarding clause regarding the responsibilities of the mandate could moreover hardly require to come into effect under the regime of the present provisional Government.

Military Forces.

M. Sakenobe noted that the effectives stationed in the territory had not been changed, but that the local troops had been reorganised. The auxiliary and supplementary troops had been amalgamated to form the "special troops of the Levant". The organisation of the auxiliary troops was very similar to that of the French troops. On the other hand, the supplementary forces had not, up to the present, been lodged in barracks, clothed or fed, and had had to supply their own needs from a monthly salary. These supplementary troops therefore formed a kind of reserve. As a result of their fusion with the auxiliary troops, the effectives of the first line had been increased.

Moreover, a new battalion had been formed to occupy the territories transferred to Syria as a result of the final delimitation of the Turko-Syrian frontier.

He asked what expenditure had been required for the above-mentioned reorganisation and for the creation of this new battalion, and from what funds the necessary amounts had been taken.

Lastly, he noted that, simultaneously with the increase in the number of troops, the number of French and Syrian officers and of French non-commissioned officers and men had been reduced. Had this reduction been caused by the reorganisation or by the necessity for economy ?

M. de Caix replied that, from the point of view of military efficiency, too much importance should not be attached to the recent changes in organisation. The object had been in particular to carry out this organisation in such a way as to prepare for the transfer of native troops to the local Government in accordance with the provisions of the mandate.

The expenditure necessitated by the creation of the new battalion had been covered partly by economies effected in the remainder of the budget of the special troops, and partly by advances granted by the French Government.

The decrease in the number of officers might have been inspired by a desire for economy, but speaking generally, the reduction in the number of officers was rendered possible by the progress made by the troops.

M. Sakenobe, referring to the military school at Damascus, had been struck by the fact that, out of 191 competitors, only 13 officer candidates had been admitted in 1930. He wondered if this number was sufficient to maintain the level of the military forces.

M. de Caix pointed out that the number of pupils admitted was determined by the needs of the troops. At the present time all the Syrian and Lebanese officers were young men; adequate provision had been made in the lower ranks, pending the advancement of the more capable officers. It was therefore possible to be stricter in selecting candidates for admission to the Damascus school.

M. Sakenobe asked whether there was a school of staff officers.

M. de Caix replied that such a school did not yet exist. It would moreover not be necessary as officers wishing to pursue higher military studies could be admitted to the French schools and centres of instruction.

M. Rappard said he would like to know how the Levantine troops were used. There were Syrian and Lebanese troops. Could they be used without distinction throughout the territories under French mandate, or was their activity localised ? In the latter case what was meant by the reinforcement of the Lebanese troops ?

M. de Caix replied that the Lebanese troops had been reorganised rather than reinforced. Under present circumstances, the local troops being under the sole orders of the French authorities, there was little reason for localisation; there was, however, a certain tendency towards localisation which would be necessary when the troops came under the orders of the local Governments. At that time, the troops would have to be allotted to each particular State, at any rate in peace time. In the event of foreign attack it was inconceivable that the troops of the different Governments should not co-operate.

M. Rappard wondered whether there was not a certain discrepancy between the relatively centralised military organisation and the political organisation based on an almost complete decentralisation of the different territories.

M. de Caix replied that it had only been possible to remove that discrepancy at the time when the Organic Law was promulgated.

M. Rappard observed that the upkeep of these local forces was very costly, and it was not very clear what military purpose they might serve.

Judicial Organisation.

M. Ruppel said he had been much interested to observe the steps taken by the mandatory Power and the different Governments to improve the moral standing and the efficiency of the

personnel of the Courts in Syria as well as in the Lebanon. He noted that the abuses of authority by civil agents had been severely suppressed. He hoped that they would gradually disappear altogether.

He asked the accredited representative whether it would be possible to include in future reports figures as to the activities of all the courts, including the religious courts, in the territories under mandate. The report for 1930 only contained figures of the cases considered by the Mixed Court of the Lebanon.

M. DE CAIX replied that it would be very easy to meet M. Ruppel's wishes.

M. SAKENOBE wished to know whether accused persons in criminal proceedings were entitled to defence by lawyers or counsel.

M. DE CAIX replied that there was no doubt about it. The Ottoman Code provided for counsel for the defence; and in view of the number and activities of the lawyers in the country, the Commission might rest assured that the law was not a dead letter in this matter.

POLICE OPERATIONS AGAINST THE DENDASHI TRIBE.

M. SAKENOBE drew attention to a reference on page 11 to police operations in the summer of 1929 against the Dendashi tribe. He asked the accredited representative whether punitive expeditions of this kind were frequently necessary.

M. DE CAIX replied that the case in question was the only one he knew of since the troubles of 1925. The Dendashi were a small group of a *gens* in the Roman sense of the word rather than a tribe. They lived on raids, coming down from their haunts in the north of the Lebanon range. In view of the difficulties of repressive action in such a district, it had been necessary to deport the group in question, consisting of some 150 persons. They had been settled on land on the banks of the Euphrates.

ORGANISATION FOR THE CONTROL AND ADMINISTRATION OF WAKFS: LIBERTY OF CONSCIENCE.

M. PALACIOS thanked the mandatory Power for the completeness of the information supplied by the report with regard to the new organisation for the control and administration of Wakfs. Could the accredited representative tell the Commission whether in practice the new organisation was working satisfactorily ? He noted a reference in the report (page 60) to differences between the ecclesiastical and the lay elements in some of the Wakfs of the Lebanese Republic.

M. DE CAIX replied that, in the case mentioned, which concerned the Druse Wakfs in the Lebanon, so far as he recollected, there was no question of a general dispute between the ecclesiastical and the lay elements: it was a matter of local disputes on points of minor importance.

He was glad to hear M. Palacios express satisfaction with this part of the report. It told the story of one of the most interesting pieces of work done under the mandate. A sustained and deliberate effort had been made to ensure satisfactory management of the Wakfs and the reform of their organisation on the basis of the social and intellectual development of the country on the one hand, and, on the other hand, on that of Moslem religious law, as interpreted by those who had authority to decide in accordance with its rules and its spirit.

M. PALACIOS drew attention to the considerable difference between the estimates and actual receipts in the budgets of the local Wakf Administrations of which the first amounted to 80 million Libano-Syrian pounds and the second only to 45 million Libano-Syrian pounds.

M. DE CAIX said that in most cases the explanation was to be found in the existence of claims on the States which it was difficult to recover. There were no legal grounds for cancelling these claims, but, in practice, their recovery was bound for the most part to be postponed.

M. RAPPARD put a question in this connection on the position of the minorities. He asked whether there were cases in which the Lebanese or Syrian authorities had intervened to restrict or prevent the exercise of their religion by religious minorities.

M. DE CAIX replied that there had been no such cases. Interference with the exercise of their religion by the minorities was, however, a form of attack to which they were not formerly subject. The majority had regarded the non-Moslem religious exercises with contemptuous tolerance, but they were much attached to their own supremacy in all political and social matters.

DISSENSION IN THE GREEK ORTHODOX CHURCH.

The CHAIRMAN said he gathered from newspaper accounts that there had been a crisis in the Greek Orthodox Church, two patriarchs having been elected and neither side being willing to come to an agreement with the other. What could the mandatory Power do in such a case ?

M. DE CAIX replied that there were two factors involved: (1) the rights of the mandatory Power and (2) the spirit in which the European authorities were always inclined to treat problems of this kind. The crisis was a real one. Two patriarchs had been elected who defied one another, neither being willing to give way to the other. The Orthodox faithful had summoned prelates from Athens and Istambul with a view to settling the difficulty, but without success. The mandatory Power was reluctant to interfere, in spite of the formal right which it had to do so. The patriarch used formerly to receive investiture from the Sultan and clearly the right of

investiture had been transferred to the representative of the mandatory Power as the supreme authority in the country and the only authority which was common to all the territories of the States in which the patriarch's jurisdiction would be exercised.

So long as the difficulty remained exclusively religious, the mandatory Power might feel that it was better not to interfere. But the crisis hindered the temporal activities of the community.

The administration of religious foundations came under the ecclesiastical authorities, and, above all, matters concerning personal status which (as had already been explained to the Commission) were largely matters for the religious courts. The present dual system consequently held up the temporal activities of the community which the Ottoman Law placed under the jurisdiction of the ecclesiastical authorities ; and, in spite of his reluctance to so do, the High Commissioner would be compelled to intervene as the Constantinople Government used formerly to do.

The CHAIRMAN observed that the accredited representative's remarks were entirely justified. There was nothing in the mandate to prevent intervention by the mandatory Power. This was no case of action calculated to go counter to liberty of conscience: it was a case rather of the prevention of disorder and the re-establishment of such unified direction of a religious community as was necessary for the temporal activities of the latter. The Commission, he added, shared his view as to the High Commissioner's powers in the matter.

ECONOMIC SITUATION.

M. MERLIN said that the report contained very full particulars of the economic situation. The fact that the economic crisis had not spared the mandated territory, was shown in particular by the difficulties in marketing agricultural products. From page 18 of the report, it appeared that the unsold stocks of wheat and barley, as at December 1st, 1930, totalled some 3½ million metric quintals. At the same time the report stated that the area sown had increased in 1930. That was a position which was not peculiar to Syria, but he asked for information as to what steps could be taken to liquidate stocks and prevent their accumulation in the future.

M. DE CAIX replied that it was difficult to interfere in regard to the increased sowings. In any case, the figures given could only be taken as approximate. The Syrian cultivator, as he had pointed out in his opening statement, did not grow corn as it was grown in countries which were more advanced economically, merely for sale, but for direct consumption. The abundance of corn, taken in conjunction with the vast stocks accumulated in the world, might inconvenience the commercial and industrial suppliers of the fellah, but it constituted an ample provision for the latter's livelihood.

The difficulty in the marketing of corn undoubtedly had economic and budgetary consequences, but over-production was not, in Syria, an evil without counterbalancing advantages which unquestionably outweighed the disadvantages.

UNEMPLOYMENT.

M. MERLIN drew attention to the increase in unemployment, particularly in the case of workers in family workshops.

M. DE CAIX did not think the number of unemployed was at present very serious. Men deprived of their traditional occupation could easily find other employment in a country in which new forms of activity were being developed. The situation was more difficult in the case of the women in old family workshops; for instance, in the case of weavers. Here there was undoubtedly suffering for which it was very difficult to find an economic remedy in view of competition and the reduction of markets as a results of Customs barriers and changes in the habits of customers.

Mlle. DANNEVIG asked whether there was any organisation of public relief, at any rate, to assist the worst cases of unemployment.

M. DE CAIX replied that the development of public relief organisation in the country was on the same level as that of a number of other duties which devolved on the State in Western countries, but which, in the East, were left to private initiative or to Providence. Nevertheless, individualism was less developed than in Western countries, and the family, in the largest sense of the word, assisted those who had no work. But it could not be denied that the personnel of the old industries was in a bad way.

FIFTH MEETING.

Held on Thursday, June 11th, 1931, at 3.30 p.m.

Syria and the Lebanon: Examination of the Annual Report for 1930 (continuation).

M. de Caix, accredited representative of the mandatory Power, came to the table of the Commission.

Agricultural Banks: Mortgage Loan Companies.

M. Merlin thanked the mandatory Power for replying to the Commission's request for a general survey of the question of agricultural credit banks (page 19). The survey dealt with each of the States separately. The high rate of interest which the banks required of their borrowers was justified by the difficulties they experienced in obtaining payment when the loans fell due. Nevertheless, this rate of interest was a distinct improvement on the previous state of affairs when the unfortunate people needing money had no alternative but to submit to the unreasonable demands of money-lenders.

M. Rappard referred to the passage on page 19 to the effect that: " On the approach of the allied armies of occupation, the cash in hand . . . was taken away by the Turkish Administration ". The report went on to say that, since the Treaty of Lausanne did not require Turkey to repay these sums, the corresponding claims had had to be finally cancelled. Was the Commission to conclude that the Bank had lost its creditors while keeping its debtors?

M. de Caix said that he had not gone fully into the question of what had happened to the sums owing to and owed by the Agricultural Bank on the departure of the Turks. Briefly, the whole cash-balance, whatever its source, had been taken away. It had been possible to recover some of the loans granted under the Ottoman regime: this was shown by the particulars given in regard to the Agricultural Bank in the chapter dealing with the Lebanon (page 145 and 146).

The Chairman referred to the paragraph concerning mortgage loan companies (page 64) and to the Decree of September 23rd, 1930. Had the mortgage loan establishments for which provision was made in this Decree begun to operate ?

M. de Caix replied that the principal establishments granting loans of this description were the Egyptian Mortgage Bank, the Mortgage Bank of Algeria and Tunisia, the Mortgage Bank of Syria, etc., but he did not know of any local companies which had been formed for the purpose of granting loans on real estate. This did not mean that no such loans were made by the nationals of the country, but they were of a private character.

The Chairman said that it was stated on page 64 of the report that: " Foreign or local mortgage loan companies enjoy the same privileges ".

M. de Caix replied that it was true that local companies could be formed and could enjoy those privileges, but he did not think there were any in existence. They would not meet the case of the capitalists of the country whose custom it was to grant loans to proprietors who were known to them, usually at very much higher rates than those charged by the banks making a speciality of this class of loan. The bank which lent the largest sums in the mandated States was the Mortgage Bank of Algeria and Tunisia.

Imports and Exports.

M. Merlin commented on the table on page 29, which gave a comparison of the position of each of the principal importing and exporting countries during the years 1927, 1928, 1929 and 1930. This commercial list brought out the very great variations in the position, in any particular year of the various countries: Egypt, for example, the United States of America and France. For instance, the United States, which had occupied the first place in 1929, had dropped to the fifth in 1930. Were those changes due to any special causes ?

M. de Caix replied that this phenomenon was explained in Annex 8, page 191 of the report, where the nature of the goods exported to the various countries was analysed. This analysis explained very clearly, for instance, the position of the United States. A very grave crisis had occurred in that country in 1930. As in all parts of the Mediterranean, the principal commodity bought by the United States in the territory under mandate was hides and skins, and, as there had been a considerable reduction in the consumption of leather (commodity mentioned under the heading " Skins and Other Animal Products ") in the United States, the percentage bought by that country had fallen proportionately. The chief export to France was silk, and if there was a crisis in the silk factories at Lyons, France was bound to take a lower place. Egypt chiefly purchased fruit and essential foodstuffs, together with a small number of manufactured

articles (textiles from the old looms). Egypt was, therefore, a more regular customer than the other countries purchasing the products of the States under mandate.

M. RAPPARD thanked the mandatory Power for the ample details furnished in regard to countries of destination and origin, in compliance with a request made last year by the Commission. It was surprising to see that the Palestine market was closing as a result of protectionist measures. In accordance with the terms of the mandate, neighbouring countries might grant each other privileges without infringing the principle of economic equality. What was the cause of this change in the situation ? Had some misunderstanding occurred between the two countries ?

M. DE CAIX said that there was no actual misunderstanding but it was the policy of the Palestine Administration to encourage the creation, even artificially, of local industries for the purpose of furnishing Zionist immigrants with a livelihood in a country which was neither very extensive nor very wealthy. Consequently, there was a tendency in Palestine to restrict imports except as regards raw materials and articles which were absolutely necessary for food supplies.
The effect of this policy could be seen in various passages of the report where attention was drawn to the stagnation of the old industries, such as the soap industry, which had been deprived of their traditional markets. Certain industries in Palestine, which appeared to be very strongly assisted by various means, had even begun to export to neighbouring countries.

STATE LANDS: ALLOCATION OF COMMON LAND.

The CHAIRMAN referred to the passage in the report dealing with State property in Syria (page 97) and Latakia (page 129). On the other hand, there was no reference to State property in the Sanjak of Alexandretta, the Lebanon or the Jebel Druse. Was that because there was no State property there ?

M. DE CAIX replied that apart from forest land which was not administered by the State Property Department, the amount of that property was very small in the Lebanon (approximately 1,000 hectares in the region of Tyre). The State property mentioned in the report consisted of cultivable land and not of forests. Similarly at Alexandretta there was very little State property apart from the mountainous forest districts. In the Jebel Druse there were communal lands but no state property. In this district the State, which was non-existant under the Ottoman regime could not have possessed anything since the country was practically unsubjugated, and the common land belonged to the only organisation then in existence—namely, the village, which was governed by its feudal chiefs.

The CHAIRMAN asked for explanations in regard to the reference on page 117 of the report to the splitting up of collective property in the Jebel Druse. It had been said some years previously that Captain Carbillet had endeavoured to encourage this and that this had been one of the causes of the revolt of the Druses. Had the land been divided up by the Druses themselves or had the authorities exercised a certain pressure in order to arrive at this result ?

M. DE CAIX replied that the Administration was encouraging the dividing up of collective properties, but without going so far as to exercise any real pressure in the matter. The movement in this direction which was noticeable everywhere in similar circumstances was becoming more and more spontaneous owing to the process of transformation going on in the country. A better ordered regime, a stronger authority, the opening of tracks permitting of motor transport almost everywhere in the Jebel, the suppression of the rebellion which had weakened the chief families had all helped to make the peasant realise that he could turn the land to account and that it was to his advantage to improve it, for instance, by planting vines and fruit trees.
Apart from the action of the mandatory administration this change would suffice to bring about the abandonment of the system of agrarian communism in the form of triennial distributions formerly in force in the country. Individual ownership, which was formerly confined to vines and orchards, was tending by means of final distributions in a safer environment and under a less rudimentary economic system, to spread and cover the whole of the soil.

The CHAIRMAN asked whether the land was in every case allotted with the consent of the population.

M. DE CAIX thought that this was so. The authorities did not and had no need to enforce an operation which the people were themselves tending to carry out under the new conditions.

M. RAPPARD asked whether this distribution applied solely to common land or whether large properties and the resultant absenteeism were also affected.

M. DE CAIX replied that absenteeism did not exist in the Jebel. On the contrary, the feudal families exercised a very active management, and their lands had not been confiscated. The distributions made were confined to land which was formerly distributed periodically and was now being finally allotted. This was the land that bore the annual crops and not the land planted with trees or vines which was already subject to the regime of individual ownership.

M. RAPPARD asked why the less important families had benefited by this distribution at the expense of the principal families.

M. DE CAIX did not think it could be said that this was usually the case. Generally speaking, the classes which were formerly less favoured tended to become more exacting when they felt

safer and the authority of their former masters had dwindled. There was no question of confiscating the property of the principal families—all that was being done was to distribute the common land from which the ruling families had formerly benefited to a greater extent than the villagers.

M. RAPPARD, in reply to another observation by the accredited representative, said that, in Switzerland also, the rich peasants profited most by the common land on which everyone was free to graze his cattle, so that they had often been the most seriously affected by the distribution.

Count de PENHA GARCIA said that, since 1926, a considerable area of land belonging to the State had been worked as the result of the distribution. He understood that the system employed was that of sale by means of payments spread over several years. Had the payments been regularly made or had any of the debtors defaulted ?

M. DE CAIX said that he not heard of any defaulters.

Count DE PENHA GARCIA asked whether the system of renting land to farmers during this time of crisis had been intensified ?

M. DE CAIX replied that the large properties, which were situated in Syria and not in the other States and Governments, did not attract colonists. They were situated in the eastern part of the cultivated land—that was to say, in a region bordering on the desert, where the climate was not particularly favourable to crops without irrigation, which was not possible in every case and which necessitated large construction works. The purchasers of State lands appeared to be mainly the peasants by whom they were already being cultivated and a certain number of whom were the descendants of fellahs who had been settled on this land before it was declared to be State property. He could, however, obtain more definite information on this point. This land might also attract a certain number of Bedouins who were settling down.

Count DE PENHA GARCIA asked whether it would not be possible to settle Armenians on that land or some of the agriculturist inhabitants of the country who were in a bad financial situation.

M. DE CAIX reaffirmed that these large properties were situated in barren districts to the east of the cultivable land. The Bedouins from the desert found this soil sufficiently good, and it was being cultivated by the former inhabitants, but the Armenians would be reluctant to settle there. It would be easier to settle a larger number of agriculturists on land to be irrigated than to bring peasants from fertile districts to regions which were not irrigated.

CULTIVATION OF HASHISH AND THE POPPY.

Count DE PENHA GARCIA observed that fresh attempts had been made to grow hashish (page 144 of the report). It seemed, therefore, that certain cultivators were not in the least deterred from growing hashish even though their crops had been destroyed. Was that, he asked, the only penalty ?

M. DE CAIX replied that the hashish crops had greatly decreased; the destruction of the crops was a very heavy penalty.

Count DE PENHA GARCIA thought that provision should be made for penal action.

The CHAIRMAN had read in a pamphlet that opium was grown on a large scale near Zahle in the Lebanon and that the Lebanese and Syrians were not the only ones to profit by this cultivation.

M. DE CAIX did not think that the author of the pamphlet could have been referring to the only French cultivator in the mandated territory. Apart from the native population this Frenchman was the only person who could benefit by the cultivation of opium or hashish. Moreover, while a field of hashish was not visible at a distance, poppies in bloom could be seen a long way off. Although M. de Caix had often visited the neighbourhood of Zahle he had never noticed that the poppy was being grown to any extent.

SUPERVISION AND SETTLEMENT OF BEDOUINS.

The CHAIRMAN referred to the question of the settlement of Bedouin tribes (pages 101 and 118 of the report). What had been the result of the enquiries into the question of the settlement of the semi-nomadic tribes mentioned on page 118 ?

M. DE CAIX said that he had asked for this information but had not yet obtained it. The settlement of the Bedouins had been effected here and there, as economic progress was made, and, in some cases, by the efforts of the chiefs themselves. In certain cases, it had been facilitated by the existence of old irrigation channels dating from Roman days and which could be put into use again without very much trouble.

The settlement of the Bedouins could not be effected all at once. It was the custom of the tribes to leave behind a few of their men in somewhat temporary accommodation to cultivate the land to some extent for the purpose of supplying the nomads with grain. The rest of the tribe continued to move about according to the requirements of its pastoral life.

The security of persons and property might perhaps result in the extension of the area under cultivation and in an increase in the number of men in charge of these operations, but it would be a mistake to believe that all the tribes, especially those which travelled long distances, would give up their nomadic life. By means of their camels, they were assured of real wealth by which the bazaars benefited during the visits of the nomads. The desert was poor, but its vast expanse made it possible to feed a large number of camels and sheep and there would doubtless always be tribes, especially among those coming from the driest districts in Arabia, to make use of it by transferring their flocks, etc., from place to place.

Delimitation of the Frontier between Turkey and Syria.

M. Orts noted with satisfaction that the delimitation of the frontier between Turkey and Syria had been completed. Exchanges of territory had been effected and some Syrians had previously complained that these exchanges had involved amputations of Syrian territory. The report stated that Syria had obtained 1,000 square kilometres of land and 85 villages by these operations. Had the Turks also derived any benefit from them ?

M. de Caix explained that the last delimitation operation concerned the region situated between the Tigris and the Nessibine railway terminus, a large part of which had been contested. The area under discussion was a very considerable one and it was not surprising that Syria should have obtained 85 villages. On the completion of the delimitation operations, the Turks had been given the points allotted to them on the remainder of the frontier, in regard to which agreement had already been reached—namely, three or four villages.

There was very little justification for the repeated complaints of the Syrians in regard to frontiers. That was obvious if one stopped to consider whether there would have been the slightest chance, without the assistance of the mandatory Power, of Syrian territory extending as far east as the Tigris.

M. Orts enquired whether the procedure laid down in the Protocol of March 17th, 1939, for the exercise of the right of option of the inhabitants in the exchanged territories had worked satisfactorily.

M. de Caix thought that the time-limit for option had now expired; he would consult the documents for which he had asked as regards the application of that right. He understood that there had been very few optants for a country other than that in which the persons in question possessed land.

M. Orts referred to the passage on page 14 concerning the disarming of the population on the frontier zone: that operation appeared to have been indefinitely postponed, owing to the attitude of the Turkish authorities.

M. de Caix stated that the Turkish demand in exchange for such disarmament—namely, as was mentioned in the report, that the Armenian refugees in the north of Syria should be removed from that region—could not be favourably considered. The territories under mandate had been able to receive and provide a livelihood for over 100,000 Christian refugees from Turkey, but only by distributing them over the whole of the territory. The problem would become insoluble if certain regions, the richest regions, were to be prohibited for refugee settlement.

How was it possible to agree to remove from the frontiers a perfectly inoffensive population ? Such a demand exceeded the requirements of Turkish territorial security, especially as there were very few Armenians still left in Turkey, and there was no danger of their being influenced by agitation from outside—a state of affairs, moreover, which the mandatory authorities would never permit.

Property Claims in Turkey of Inhabitants of Syria and the Lebanon, including the Armenian Refugees.

M. Orts noted (page 14) that no decision had been reached in connection with the negotiations relating to such property. He seemed to remember from the statements of the accredited representative last year that the Turks had made this question conditional on that of the property of the Armenian refugees.

M. de Caix pointed out that the difficulty arose chiefly from the fact that the mandatory Power had endeavoured to bring about the restitution of the property belonging not only to persons originating in the now mandated countries, for whose nationality they had opted, but also of the refugees who, since 1921, had come in such large numbers from Anatoly.

Delimitation of the Frontier between Iraq and Syria.

M. Orts referred to the passage in the report (page 16) which stated that the delimitation operations had been suspended on account of practical difficulties. What was the nature of these difficulties ? The mandatory Power seemed to wish that those operations should be actively pursued.

M. de Caix thought that the practical difficulties mentioned in the report—difficulties which had been in existence some ten years previously—consisted chiefly in the fact that the inland frontier regions had hardly been recognised at that time.

Further, in order fully to understand the question, it must be remembered that the parties involved were not the British and French Governments, negotiating about their own property, but mandatory Powers, having behind them Iraqi and Syrian public opinion, respectively, and even Governments prepared to criticise local concessions which might require on either side

the application on the ground of geographical boundaries, under the terms of the Agreement of December 23rd, 1920.

M. Orts enquired whether France was negotiating with the Department of the British High Commissioner ?

M. de Caix replied in the affirmative. The mandatory Government for Syria had to deal with the British Government which was responsible for the external relations of Iraq and Transjordan, a Government, moreover, which was a signatory to the Agreement of December 23rd, 1920, fixing the frontier as it now exists.

Convention regulating the Transit of Mineral Oils of the Iraq Petroleum Company Limited through the Territories of Syria and the Lebanon.

M. Orts referred to the information given in the French Chamber by M. Paganon concerning the construction of a pipe line in the territory. It appeared from a sketch in *The Times* that the branch line would end at Tripoli in Syria. An agreement had already been concluded between the Iraq Petroleum Company and the Palestine Government concerning the construction of a branch line ending at Haifa. Had a similar agreement been concluded as regards Syria, and was the execution of the Tripoli branch line actually contemplated ?

M. de Caix replied that a similar agreement had been concluded and that the two branches were to be constructed.

M. Orts enquired whether the Company itself would construct the pipe line. Syria would obviously derive benefit from this, but the benefit to be derived by the company was not so apparent.

M. de Caix replied that, if the plan had been established with reference to purely technical considerations, it would doubtless have been decided only to construct the Tripoli pipe line, as that was the shorter of the two and presented the easier profile. Syrian interests would not, he thought, have had to be taken into consideration.

M. Rappard enquired whether the French Government was interested in the Company.

M. de Caix replied in the negative. French interests were represented to the extent of about one quarter, but not in the form of State participation.

In reply to a request of the Chairman, he said that he would certainly ask that the text of the Agreement concluded by the Syrian and Lebanese Governments should be communicated to the Commission, as had been done by the British Government.

He added that it was a question of determining which of the plans was best calculated to serve the commercial interests of the company. Moreover, the latter might perhaps have thought it desirable that its exports should not depend upon a single outlet.

M. Orts enquired whether Syria was participating financially in the concern.

M. de Caix stated that, although he had not gone specially into the question, he had never heard that either Syria or the Lebanon had to intervene in the establishment of the pipe line, which was to be constructed entirely by the Company.

Commercial Relations with Neighbouring Territories.

M. Orts noted (page 14 of the report) that the commercial negotiations with Turkey, interrupted in December 1926 had not yet been resumed.

M. de Caix said that the resumption and successful outcome of those negotiations had not depended on the mandatory Power.

Replying to a further question of M. Orts, he explained that, in the absence of any agreement with Turkey, the Customs regime involved the application of the maximum tariff on either side.

M. Orts, referring to page 16, asked what was the provisional regime accorded to the Nejd, which had denounced the Commercial Convention of 1926.

M. de Caix replied that he could not give the exact information as the necessary documents were not in his possession.

M. Orts said that the report gave the impression that the Customs regime was somewhat unstable at the moment; the commercial negotiations with Turkey had come to a deadlock; negotiations with Transjordan had been opened with a view to a modification of the Customs tariff; the commercial convention with the Nejd had been denounced; as regards relations with Egypt, a *modus vivendi* had been established. The mandatory Power was no doubt anxious to improve such a situation.

M. de Caix replied that it was certainly the wish of the mandatory Power, but that its own goodwill was not the only factor in the case.

Dissidents residing outside the Territory and Origin of their Resources: Information disseminated regarding an Alleged Offer of the Throne of Syria to the Emir Ali.

M. Rappard recalled that, according to the report, the Nejd was the haunt of dissidents, and enquired whether the diplomatic channel might be best suited for the settlement of questions arising in the matter.

M. DE CAIX replied that very little attention need be paid to the small group of Druze dissidents, which was the only group of the kind and the members of which found themselves in a difficult position.

M. RAPPARD noted that reference had been made to the foreign help extended to Soltan Attrach and others. He would be interested to have information on the subject.

M. DE CAIX replied that this observation probably referred to the contributions made by certain emigrants of Syrian and Lebanon origin, but that the amount in question was probably quite small. It was likely that some of the 500,000 or 600,000 Syrians and Lebanese living abroad, some of whom were Druze, sent certain contributions, which were, however, certainly very small.

M. ORTS pointed out that, according to certain information given in the Press there was some question of the mandatory Power offering the crown of Syria to a brother of the Emir Feisal.

M. DE CAIX replied that many rumours were rife in the East but that there was no reason to believe that that particular one had any foundation.

ANTIQUITIES.

Count DE PENHA GARCIA thanked the mandatory Power for having complied with his request concerning the Antiquities Service. The information given was very complete and was a credit to the mandatory Power. Would it be possible for the Commission to have a complete set of the *Syria Review*, of which the Secretariat had copies up to 1928 ?

M. DE CAIX replied that he would take the necessary steps. He added that, owing to the smallness of the budgetary credits allocated by the States for the preservation of historic monuments, there was reason to fear that certain of the latter might be in danger of collapsing for want of the means to preserve them.

Count DE PENHA GARCIA asked if there did not exist in the territory a permanent budget maintained by the States for the exploration and preservation of the archæological riches with which the country was so abundantly provided.

M. DE CAIX replied in the negative.

Count DE PENHA GARCIA regretted that this was so, and expressed the hope that this budget would be created in the moral and material interests of the territory.

PUBLIC FINANCE.

M. RAPPARD thanked the mandatory Power for the explanations given in regard to public finance. The complexity of the financial organisation accounted for the questions which had been raised last year by the Commission. The relations of the mandatory Power with the different States, and of those States with one another, were very delicate. In the absence of any special system of allocation, the operations concerning the allocation of expenditure must, it seemed, have been very difficult. He noted that the report contained no mention of the matter. Was the question so technical that no one understood it, thus leaving the matter in the High Commissioner's hands ?

M. DE CAIX replied that the High Commissioner had hitherto been solely responsible for the administration of joint interests and had been left to decide the matter of allocation, but that the latter was effected on the basis of carefully studied data which were revised from time to time. Moreover, the parties concerned had been consulted on various occasions without its having been possible, however, for them to agree on a decision to be taken by the High Commissioner with due reference to the arguments of all the parties.

M. RAPPARD referred to the tables concerning the budgets of the States (page 117 of the report). He asked for an explanation of the extraordinary irregularity in the proportion of the revenue as between Syria and the Lebanon ?

M. DE CAIX replied that the Lebanon had more indirect receipts, derived chiefly from Customs, as its population undoubtedly consumed a larger quantity per head of imported articles than the populations inland, which were less in contact with the outside world and in particular included a smaller number of emigrants returning to the country with fresh requirements which they introduced around them.

The Lebanon, on the contrary, by reason of its geographical situation was regarded as benefiting less directly from the military expenses borne jointly by the States, and, accordingly, defrayed a smaller proportion than Syria.

Lastly, politics and economics explained how indirect taxes predominated in the revenue of a country which did not possess any great area of cultivable land, and in which the dominant political element was a class which everywhere preferred taxes on consumption rather than direct taxes.

M. RAPPARD concluded that Syria must be a very democratic country.

M. DE CAIX could not agree, but observed that there was in Syria a much higher proportion of land which paid the tithe, or taxes levied in place of it.

M. RAPPARD noted that, on page 99, it was stated that the Syrian Government was studying new regulations for the taxation of buildings. Could the Commission have further information on the subject ? Were new regulations concerning the rural property tax contemplated ?

M. DE CAIX replied that only two reforms had been carried out in connection with the rural tax. In the first place, the tithe had been consolidated, by the adoption as the assessable quantity of the average for the last four years in the districts where the survey had not been made; secondly, in the districts where the survey had been made, a land tax had been introduced. He pointed out that the establishment of the survey, which had resulted in the assessment of the yield of land whether cultivated, uncultivated or no longer cultivated, was a cause of the fresh charges in respect of large properties.

M. RAPPARD asked if it was to be concluded that this reform would not be carried out in Syria, where the big landowners preponderated.

M. DE CAIX replied that they would have great difficulty in preventing a reform, the principle of which had been adopted and the practical possibilities of which were being developed. For the rest, there was a counterbalancing concession for the big landowners in the form of the consolidation, by a final land settlement, of rights, sometimes open to dispute and contested until they were established by unobjectionable titles.

M. RAPPARD said that that confirmed his impression that the influence of the mandatory Power was stronger in financial matters than in general policy. He asked if the survey operations, which were very difficult, were carried out by local authorities.

M. DE CAIX replied that they were carried out by a *régie* which was not a Government organ but worked for the States for a general fee. Those who carried out the work were not local people, but Europeans—many of them Russians who had come from Istambul and were able to make use of their technical knowledge in the service of the survey office. When the State had decided that this or that district should be surveyed, it was handed over to the *régie* and the work was done on the technical and legal lines explained in previous reports. It was possible that if the country were left to itself, this work would not be done.

M. RAPPARD wondered whether in these circumstances, a change of regime, which might be unfavourable to progress, was desirable.

M. DE CAIX replied that it was to be hoped that a new regime would not modify in any way the work which had been begun.

COLLECTIVE FINES.

M. RAPPARD mentioned an article in the *Temps* of June 4th, 1931, in which it was stated that a former Syrian soldier who had been attacked by rebels and severely injured had asked the French *Conseil d'Etat* that the indemnity which had been levied on the town where the incident had occurred should be paid to him. The request had been rejected by the *Conseil d'Etat*. M. Rappard observed in this connection that a question raised some years previously by the Commission had not been answered—namely, was the yield of collective fines used to compensate the victims or was it paid to the budget ?

M. DE CAIX replied that the sums in question were used to compensate the victims although they were not sufficient to make good all the damage caused through the insurrection. There was one exception—the case of Homs, which had paid an indemnity of 100,000 pounds, which was devoted to municipal improvements in Homs itself.

EXPLOITATION OF LARGE PROPERTIES.

The CHAIRMAN desired to know how large properties were worked, whether by tenant farmers or by the owners themselves.

M. DE CAIX replied that every possible method was employed in the country. Owners themselves worked their estates, especially if they had progressive ideas. Elsewhere, the land was shared by the owner with fellahin, under a form of joint working. The system varied from the owner simply contributing the land while the fellah provided the labour and capital, to the fellah providing only labour and the owner furnishing the rest.

The great majority of the land was not cultivated by the owners, but it would be unfair to say that they themselves undertook no work of exploitation. Some of them were agricultural experts who endeavoured to put their knowledge into practice.

The tenant-farmer system proper was extremely rare, because it was based on the assumption that a profit would be made on the land, whereas actually the cultivators lived on the land as best they could, and most of them were always in debt.

The CHAIRMAN asked whether large portions of these properties were still waste land.

M. DE CAIX replied in the negative so far as concerned cultivable and inhabited areas. There were, however, fallow lands, which the cultivators did not manure and which therefore had to be left fallow periodically.

It could not be said that there were many waste lands in the cultivable areas, which, for the most part, did not extend further than 60 or 80 kilometres east of the railway between Aleppo and the south.

The CHAIRMAN asked the accredited representative's opinion on the conditions of life of the fellahin.

M. DE CAIX said that most of them were very poor people,working land which did not belong to them with the help of loans on very harsh terms. In most cases, the fellah never succeeded in completely paying off the advances that he had to have in order to live and carry on his work.

LABOUR.

Mr. WEAVER welcomed the promulgation of the Decree of July 6th, 1930, regulating child labour in certain industries in Syria. It was not, however, quite clear whether the minimum age laid down was 11 or 12 years. Article I of the Decree prohibited the employment of children of less than 11 years of age, while Article 7 provided that a criminal action would be brought against any person employing a child under 12.

M. DE CAIX admitted that there appeared to be a contradiction between the two articles.

Mr. WEAVER asked whether Article 7 was not meant to apply to children who had just completed their eleventh year and were entering upon their twelfth year.

M. DE CAIX added that the regulations would only affect a very small number of children, while a large number were working in family workshops in regard to whom it was impossible to adopt any legislation.

Mr. WEAVER asked whether the word " family " was interpreted in a very broad sense.

M. DE CAIX explained that the expression referred to workshops in connection with houses inhabited by artisans.

Mr. WEAVER asked whether this meant that a very large number of small factories actually evaded the regulations.

M. DE CAIX replied in the affirmative. The regulations could only apply to modern factories. No matter what regulations were promulgated, their application would be a slow matter in the absence of the necessary administrative machinery.

Mr. WEAVER observed that, under Article 5 of the Decree, infringements would be reported by agents appointed by the Director General of Public Health and Welfare. Would those agents actually be labour inspectors responsible for the application of the Decree ?

M. DE CAIX replied that they would, in any case, act as temporary inspectors. There was no corps of Labour inspectors and there was, at present, no question of creating one. Agents of other administrations would act as inspectors.

Mr. WEAVER asked whether these inspections were carried out regularly.

M. DE CAIX thought that they were very irregular in the State of Syria. The existing conditions in those countries had to be taken into account.

Mr. WEAVER hoped that the Decree in question would nevertheless be of great utility.

M. DE CAIX said that this was a first experiment,which was perhaps due in part to the questions raised by the Commission. The officials administering the mandate paid great attention to what was reported in the Minutes. They had to begin by introducing measures of principle, but these could only be applied gradually.

Mr. WEAVER asked whether this Decree could be regarded as an initial measure with a view to the introduction of a labour code.

M. DE CAIX said that that idea had not been abandoned, but that it was difficult to carry it out owing to the situation in the country. It was contemplated more particularly in the Lebanon, but some time might elapse before the scheme could take shape. He added that, whatever might be the drawbacks of work in modern factories, the workers earned more than in family workshops, which suffered from competition, as had frequently been described in the reports. He had met some workers who had asked him to try to bring about the erection of factories which would provide them with more work.

M. PALACIOS thanked the mandatory Power for the care with which it had given information regarding conditions of labour (particulars as to wages, etc.) for which he had asked in previous years. He considered that the labour regulations for miners in the State of Syria indicated the introduction of action, no doubt salutary, against the policy of *" laisser-faire "*.

M. DE CAIX thought that the Commission would be better satisfied on this point next year. It was very difficult, he said, to obtain such information in the East.

M. PALACIOS observed that at Damascus and at Homs (page 95 of the annual report) old looms were working on raw material provided by merchants. Who profited by this work ? Who placed the goods on the market ? The workers or the contractors ?

M. DE CAIX said that as a rule they were the same persons.

M. PALACIOS concluded that this was perhaps a sweated industry. This would not be the case as regards home industries of which the produce would be sold by the producer direct to the public.

M. DE CAIX pointed out that he was referring to home industries.

M. PALACIOS answered that, if they were being exploited by contractors, a question arose, perhaps a very serious one, which required most careful consideration.

EDUCATION.

Mlle. DANNEVIG said that as she had not received the report until just as she was leaving for Geneva she had not had time to study it thoroughly. She was glad to notice appreciable increases in the budget appropriations for education and the number of schools and pupils. It was stated in the report that the elementary school-leaving age in Syria had been raised by one year, the total school period being now six instead of five years. She would like to know whether the children stayed at school for the whole of that period, or left after three or four years.

M. DE CAIX made a note of this question.

Mlle. DANNEVIG added that she was thinking primarily of girls, in connection with the age of marriage. It might be that girls were taken away from school too early because their parents wished them to marry—at all events, certain newspaper extracts suggested this.

M. DE CAIX said he had never heard that Syrian girls were often married when they were still of school age. Marriages, he observed, seldom took place so early in that country; while the Koran allowed this, it was not done in practice, and the customs of the country rendered the authority given by the Koran theoretical.

Mlle. DANNEVIG was not surprised to see that the percentage of girls attending school was very low. Doubtless it would take a long time to improve the position. She would like to know whether there were any domestic science schools.

M. DE CAIX replied that domestic training was given in private schools.

Mlle. DANNEVIG said she had read that, in the Lebanon, all schools, both public and private, were being brought under Government control.

M. DE CAIX said that the foreign schools were the only ones which were not under the control of the local Government.

Mlle. DANNEVIG noted (page 136) that many schools in the Lebanon had been closed by the Lebanon Government in the previous year for reasons of economy, but that they had been reopened later when conditions were better. That, she thought, was apt to give rise to many difficulties.

M. DE CAIX thought not. The schools that had been closed were those which were not attended by enough children.

Mlle. DANNEVIG asked whether Lebanese students who went to France went on scholarships or at their own expense.

M. DE CAIX answered that some did one thing and some the other; there were many Lebanese students in France who were supported by their families.

PUBLIC HEALTH AND ASSISTANCE.

M. RUPPEL thanked the mandatory Power for the very full particulars given with regard to official and private relief institutions (Annex 10 of the annual report). If was surprising that there was such a large number (120) of private institutions, native and foreign, and that they did so much work. That being so, it was quite comprehensible that the Government of the States should be content to offer additional opportunities of treatment to the population, at all events where private institutions were at work. The Governments seemed to have been increasing their efforts since the previous year, inasmuch as expenditure on public health, hygiene and assistance had risen by 15 per cent.

M. DE CAIX explained that this development of private institutions was due to the fact that in the past, since the Ottoman Empire had done nothing, they had had to perform a function which in western countries was usually fulfilled by the State.

In reply to further questions from M. Ruppel, M. de Caix said that the supply of local doctors was tending to exceed the demand, especially in the towns. Doctors trained in the French and American universities at Beirut were usually good, and sometimes excellent. The training at Damascus was improving considerably. There were far too many doctors in the large towns and not enough in the country districts, where conditions of life were often uncomfortable. It must not be forgotten that, with very few exceptions, the villages in the Syrian plain consisted of huts similar to the huts in the Sudan.

DEMOGRAPHIC STATISTICS.

M. RAPPARD observed that, at the eighteenth session, the accredited representative had announced a new Ordinance was being issued regulating civil status in Syria. The report for

1930 stated (page 80) that " civil status is to be reformed ". The question had frequently come before the Commission but no great results had been achieved.

M. DE CAIX replied that a reform had been attempted and that registrars of civil status had been appointed. The system, however, was still inadequate. M. Rappard's remarks suggested that the mandatory Power was still continuing its efforts and was anxious to carry out a reform.

CLOSE OF THE HEARING.

The CHAIRMAN once more thanked M. de Caix for his co-operation, by means of which he had throughout given the Commission so much help, instruction and pleasure. He asked M. de Caix to convey to the mandatory Power and to the High Commissioner in Syria the Commission's best wishes for the success of their work in spite of all obstacles.

SIXTH MEETING.

Held on Friday, June 12th, 1931, at 11 a.m.

South West Africa: Examination of the Annual Report for 1930.

Mr. te Water (High Commissioner of the Union of South Africa in London) and Major F. F. Pienaar, D.T.D., O.B.E. (accredited representative of the Union of South Africa to the League of Nations), accredited representatives of the Government of the Union of South Africa, together with Mr. H. T. Andrews (Political Secretary to the High Commissioner), came to the table of the Commission.

WELCOME TO THE ACCREDITED REPRESENTATIVES.

The CHAIRMAN welcomed Mr. te Water and Major Pienaar, who had been appointed as accredited representatives for the examination of the annual report on South West Africa.

Before opening the discussion on the annual report, he wished to inform his colleagues of a letter dated April 10th, 1931, received by the Secretary-General of the League from the Government of the Union of South Africa, explaining that on this occasion it had departed from its custom of accrediting an official of the Administration of South West Africa possessing personal knowledge of the affairs of the mandated territory. The Government of the Union explained that, in making this departure from the usual practice, it had been inspired exclusively by the desire for economy in view of the present financial crisis. The Chairman thought he was interpreting the unanimous view of the Commission in stating that it greatly appreciated the confirmation thus given by the South African Government of its desire to maintain a practice of which the Commission had always been in favour and which had been constantly followed by the mandatory Power.

The Commission had the best memories of its co-operation with Mr. te Water in the previous year; the Chairman had therefore much pleasure in welcoming him on behalf of the Commission and in requesting him to make his general statement.

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

Mr. TE WATER. — I wish at once to thank you, Mr. Chairman, for your kind words of welcome to Major Pienaar and myself, and to state that I fell sure that the happy atmosphere in which South West Africa's problems were discussed last year will, under your wise and tactful chairmanship be recreated this morning.

I had occasion last year to state that the South West African Territory was passing though a period of great stress; that the country was experiencing the most destructive drought within the experience of the Union Government's administration, and that, as a result, also, of the worldwide depression and the consequential drop in the revenue of the territory, the Administration expected to have to close its financial year with a deficit.

In presenting the report concerning the administration for the year 1930, I regret to have to confirm that the year has been, in the words of the report, " a tragic one for South West Africa ".

This Commission will therefore readily appreciate the Administration's desire to effect every possible economy in the interests of the territory. It is for this reason alone that it has been decided

this year to depart from the previous practice of sending an official from the territory to appear before the Commission as a deputy-representative.

We are, therefore, without the very valuable assistance which these officials have hitherto rendered, and the Commission will, I am sure, appreciate that it will not be easy to furnish all immediate information as to details of administration with which it has been possible to amplify and supplement past reports.

Major Pienaar and I, however, propose to lend ourselves to the task of satisfying your demands to the best of our ability, and, where we are not able fully to satisfy them, to claim that indulgence which was not withheld from me last year, under easier, though not happier, circumstances.

As has been notified by the Union Government, however, the absence of an official on this occasion must not be taken as a precedent, and with an improvement in the general position, it is hoped to revert as far as possible to past practice in this connection.

Having said this, I believe it may be of value to the Commission if I give in broad outline some of the main features of the 1930 report.

The climax of a long period of drought—the worst within European memory—was reached in 1930 and, as a result, both the farmers and native inhabitants suffered grievous losses of stock, while agricultural production dropped almost to vanishing point.

The effect of the world depression also made itself felt on the mining industry, and, contrary to the hopes expressed last year, that industry, on which so much depends in these territories, did not revive.

On the other hand, the diamond position has become so acute as to cause considerable unemployment.

As a further consequence, both European and native wage-earnings have considerably decreased, although it is perhaps of some small comfort to note that the natives have not suffered the drastic cuts in wages which have had to be effected in the case of the Europeans. The Commission will note that the report states that, unless some unforeseen improvement takes place in the near future in the mining sphere, a further drop in European and native wages must result.

The depressed condition of these two basic industries—farming and mining—has naturally reacted on the merchants, and indeed on the whole community, so that the Commission will not be surprised to observe the considerable rise in the curve of insolvencies.

It will be seen from the report that the Administration is undertaking a number of measures to assist in the rehabilitation of agriculture. Through the medium of the Land Bank and the Land Board it is proposed to make limited advances to deserving farmers; the operation of the Proclamation relating to the suspension of claims in respect of fencing has been extended; provision has been made for the establishment of co-operative societies; and generally the commercial banks have exercised and are excercising the greatest forbearance towards the farming community.

I have thus far painted the gloomy side of the picture. But fortunately there is a silver lining to the cloud, which gives some cause for encouragement—in spite of the price of silver.

The drought in South West Africa has broken, so that in respect of agriculture I am happy to reflect the optimism shown by the Administrator when, in addressing the Legislative Assembly in April last and reviewing the general situation, he expressed the belief that, with the fall of copious rains in practically every part of the country, the worst was now over, and that, whilst the aftermath of the drought had naturally still to be faced, there were encouraging signs of improvement, as for instance the rise in the price of wool, the demand for Caracul pelts and encouraging enquiries for slaughter sheep.

It was realised that a return to normal conditions could not be expected in a day, but in the words of the Administrator: " If all sections of the community continue to display the same patience and fortitude as they have hitherto displayed, and apply themselves energetically, with the assistance of the relief measures (outlined in this report), to the task of reconstruction, all the ground that has been lost during 1930 will be recovered ".

An effort has been made in the report before the Commission to furnish as full information as possible on the subject of native affairs in the territory.

It will be remembered that, in the course of last year's examination, two matters attracted particular attention under this head; first, the situation in Ovamboland and the native reserves as a result of the drought, and, secondly, that of the education of non-European children and the request for information as to the school facilities offered both to urban and rural native children in the mandated territory. In addition, a request was made for further information as to native labour conditions in the territory.

Every effort has been made to present as much information as possible, on all of these points and I trust the Commission will regard any shortcomings in this connection as arising out of the difficulties which always face the Administration, rather than as a lack of desire to co-operate to the fullest extent with the Mandates Commission.

As a general observation on this subject of native affairs, I would like to point out that, despite the imperative necessity to reduce expenditure in all directions, the actual direct expenditure on

natives has gradually increased during the past five years, whilst the provision for the financial year ending March 31st, 1931, was placed at £57,870, including a sum of nearly £15,000 on education. (Mission Schools, £13,800; Inspection, £1,120.)

As the Chairman very wisely said at last year's examination on this subject of education:

> " He did not think it wise for the Commission to show too great impatience or to be too exacting in so far as the education of natives in the reserves was concerned . . .
>
> " He did not think it should be too insistent in regard to education as a whole, for the mandatory Power must be permitted to organise this branch of its activity calmly and surely." [1]

This expression of opinion, though I do not seize upon it as an excuse, nevertheless does show, if I may express my own opinion, a deep and wise insight into this difficult problem.

I feel that a perusal of this year's report on this particular subject, coupled with the very interesting memorandum giving " The Missionary's Point of View ", which has been incorporated in the report, will go to prove that the Administration is moving in this important matter as expediently as wisdom and experience dictate.

This chapter embraces, *inter alia*, a review of the number of native schools and pupils, and the arrangements made for training native teachers, whilst you will see that in respect of expenditure on education the vote for " Coloured and Native Education " has been increased from £10,800 in the financial year 1929-30 to £12,900 during the current year—an increase of approximately twenty per cent. These sums do not take into account head office administration expenses and school inspection—estimated to amount to about £2,000.

In any case, however, the Commission will appreciate that expenditure is on the increase, and wil be pleased to note the authoritative opinion of Dr. Vedder of the Rhenish Mission that, as a result of the co-operation between the Administration and the missionaries, " there is hardly another branch of the entire cultural work in South West Africa which manifests such unimpeded growth as schoolwork among the natives ".

You will also be interested to know of the relief measures that were taken to assist the Ovambos, both in the way of supplying food and providing employment. Owing to the failure of crops it was necessary to continue on a much larger scale the work of relief which was adumbrated last year; in addition the Director of Works was despatched by the Administration to Ovamboland, and, following his survey of the situation, the construction of dams on an extended scale was undertaken. This afforded unemployment relief to thousands of natives and, as stated in the report, some thirty-two dams were completed.

In addition to the assistance rendered by missionaries and by the natives themselves, the Administration despatched over twelve thousand bags of meal to the distressed area. This work of humanity has been amply rewarded, and I am pleased to say that excellent rains have fallen and the crops are reported to be in a flourishing condition, so that the danger of further famine in Ovamboland has been averted.

Arising out of the Commission's last examination, information has been furnished on the position of native labour in the territory, with particular reference to inspections—other than medical—undertaken by the Administration. It will be seen that the safeguarding of the native labourers' interests is specially placed in the hands of three officials who divide up the territory between them, and the closest touch is maintained as between the Administration and the natives. I need only reiterate the truth that the feeding, clothing and housing of these labourers reach a high standard, and that generally the total absence of industrial disturbance is eloquent proof that their interests are well looked after.

The Administration has also continued to safeguard to the utmost the general health of natives employed in mining operations, and this year is able to report a most satisfactory decrease in mortality, which at 28.12 per thousand per annum is the lowest during the past five years.

The various recommendations made by Dr. Fischer in regard to improving conditions on the northern mines have been largely put into effect and are detailed in the report, whilst the Commission will be pleased to have further evidence of the mining companies' interest in the matter, in their utilisation of the services of Professor Campbell, Professor of Bacteriology of the Capetown University, to make further investigation into the influenza epidemics that hitherto have caused such extensive harm. A number of additional recommendations have been made by Professor Campbell, which should still further serve to improve health conditions generally.

I would add that, in response to the observations of the Commission arising out of last year's report, information has also been furnished in respect of the Caprivi Zipfel on a similar basis to that of the other areas within the territory. In addition, a chapter has been inserted on the subject of native beverages and will, it is hoped, be sufficiently informative for the Commission's purpose.

In conclusion while I have been unhappily driven to describe the year 1930 as " a tragic one for South West Africa ", I am the more pleased to draw the Commission's attention to the

---

[1] See minutes P.M.C. eighteenth session, page 138.

Administration's opinion contained in paragraph 149 of the report, "that the country is intrinsically sound and, given reasonable conditions, will soon recover ".

This opinion is not only indicative of the optimism of our people, who all use the phrase " *alles sal reg kom* ", but an opinion which, I can assure the Commission, is indicative of the courage and zeal with which the Administrator and his officials are facing extraordinary difficulties. To this courage and zeal a tribute, which comes from an unprejudiced and unbiassed source, has been paid by the Finnish Mission in these remarkable words: " The Administration of South West Africa can stand before God and the world with a good conscience ".

Finally, I am happy to announce that Mr. Werth has been appointed by my Government for a further term of two years of office as Administrator of South West Africa.

The CHAIRMAN thanked Mr. te Water for his interesting statement.

Mr. TE WATER then read the following replies cabled by the Administration to certain questions which had been put by members of the Commission last year but which, he had observed, had not been dealt with in the report.

In discussing the famine in Ovamboland, Lord Lugard had asked for information as to the number of deaths caused by famine (Minutes of eighteenth session, page 134). The reply was that no deaths were directly due to famine.

With regard to taxation in Ovamboland, Lord Lugard had asked whether the tax on the natives would have to be paid for two years in 1930 owing to the famine in 1929. He had asked if this would not be a somewhat heavy burden (Minutes of eighteenth session, page 140). In reply, Mr. te Water stated that taxation was dealt with in paragraphs 600 to 604 of the 1930 report, from which it would be seen that, owing to prevailing conditions in Ovamboland, no pressure had been exercised to collect the outstanding sums amounting to £2,221. In further amplification of the report, the Administration had cabled that taxes for 1930 had been remitted.

In respect of native labour (Minutes of eighteenth session, page 139), Mr. Weaver had asked for information as to native wages. Mr. te Water stated, in reply, that natives working in the mines received from 20/- to 60/- monthly, plus food, medical and hospital service and railway transport. Natives working on the farms received from 10/- to 20/- monthly plus rations, sugar, tobacco, meat, mealie meal, coffee and salt. In some cases, grazing for a limited number of stock was allowed free. With regard to domestic service, men received from 30/- to 80/- per month plus food, and women from 15/- to 30/- plus food. Municipal servants and others received 60/- to 90/- monthly without rations. Labour conditions were regulated by Proclamation No. 34 of 1920, and in the case of natives in the mines by Proclamation No. 3 of 1917 as amended by Proclamation No. 6 of 1925.

With regard to the liquor traffic, Count de Penha Garcia had asked that in future, licences might be shown under two headings—that was to say, liquor licences and other licences (Minutes of eighteenth session, page 148). In reply, Mr. te Water gave the following revenue figures for 1929-30: (*a*) liquor licences (including the gallon tax) £12,290; (*b*) other licences £62,196; total £74,486. Mr. te Water said that he would arrange for these two items to be kept separate in future reports.

With regard to the Rehoboth community (Minutes of eighteenth session, page 133), Mlle. Dannevig had asked why the provision for the Government school for Rehoboths for the year ending March 31st, 1930, had been returned as nil, whereas there had been a grant of £156 in the previous year. In reply, Mr. te Water said the Government school at Rehoboth was closed as the attendance had fallen to practically nil, the children having been absorbed by the existing three mission schools at Rehoboth. The Administration was paying the salaries of the teachers in those schools and providing all equipment in accordance with the Education Proclamation.

DROUGHT AND FAMINE IN OVAMBOLAND AND IN OTHER PARTS OF THE TERRITORY: ECONOMIC DEPRESSION.

M. ORTS noted the remark that, owing to the exceptional drought, 1930 had been a " tragic " year. He asked the accredited representative if he could give the Commission an idea of the extent of the actual loss suffered in the territory. What, for example, had been the total loss of stock ?

Mr. TE WATER quoted a recent statement by the Administrator to the effect that the total decrease in income, due to drought and the economic depression in 1930, amounted to £248,000 or 30 per cent. The reduction in stock amounted to 55,641 large cattle and 228,000 small stock. The respective totals for 1929 and 1930 were given on pages 34 and 35 of the 1930 report. A further index was supplied by the number of sequestrations in the Territory, which amounted to 38 in 1930 as against 13 in 1929.

He remarked that it was the general experience in South Africa that decreases in stock from drought were rapidly replaced as soon as conditions improved. As abundant rain had

fallen in all parts of South West Africa, he thought that the reductions brought about by the three years' drought would soon be made good.

The CHAIRMAN asked whether the Europeans or the natives suffered more from the drought.

Mr. TE WATER replied that the report showed that the Europeans had relatively lost more than the natives.

M. RUPPEL pointed out that, according to certain South West African newspapers, a scheme had been elaborated under which the Union Government proposed to lend the farmers £175,000 through the Land Bank for the purpose of buying new stock. He asked if the accredited representative could gave fuller information thereon.

Mr. TE WATER replied that this information was correct and that it was proposed to work the scheme on somewhat similar lines to those adopted in the Union of South Africa.

He also referred to page 30 of the report, paragraph 128 (iii), regarding the grant of loans by the Land Bank to members of co-operative societies. The report stated that a number of societies had been formed and up to the end of the year about £25,000 or £30.000 had been advanced.

M. RUPPEL said he had in view a new measure which was not mentioned in the report but which had been referred to by the Administrator in April 1931.

Mr. TE WATER regretted that he could not give further information immediately. Speaking from memory, it was proposed to adopt a measure similar to that in force in the Union. The report of the Administrator's speech which he had received did not contain complete information. He would, however, obtain full details on the subject.

Count DE PENHA GARCIA expressed his satisfaction at Mr. te Water's very clear statement, and was glad that it had dealt with the very important question of the economic crisis. For the last two years South West Africa had been greatly affected by the agricultural crisis and somewhat later by the increased difficulty of finding markets for mining products, in particular, diamonds. He drew attention to the very interesting table on page 146 of the report showing the relative value of exports of minerals, including precious stones, and agricultural products. This table showed that the exports of agricultural products rose gradually from 21 per cent in 1924 to a maximum of 34 per cent in 1928. The exports of agricultural products had declined to 23 per cent in 1929 and 24 per cent in 1930, while there had been a corresponding increase in the exports of mineral products. In his opinion the future economic prosperity of the territory depended mainly on the development of agriculture. The market for diamonds and minerals was uncertain, although the diamond syndicate was at present successful in keeping prices on a high level. It should be noted, however, that this result was obtained by considerably reducing the quantities put on sale.

Count de Penha Garcia considered that it was safer to develop agricultural production as much as possible. He paid a tribute to the work done by the Administration to combat the shortage of water and to select varieties of stock, by means of which the possibilities of production, both as regards number and value, had been greatly increased. He asked the accredited representative whether it was the policy of the mandatory Power further to encourage agriculture or if it considered that it could rely upon continued prosperity from the mining industry.

Mr. TE WATER said that, on the broad question of agriculture *versus* mining, he and every South African must agree that the permanent wealth of the country lay in the land and that the farmer should receive first consideration. This did not, however, mean that the Administration would neglect the mineral wealth of South West Africa. He fully agreed that all steps should be taken to develop agriculture in the territory.

With regard to the figures quoted by Count de Penha Garcia, he pointed out that the decrease in the exports of agricultural products was due to three years of drought and to the decline in values caused by the world depression.

It might be of interest to refer to a statement made in May last by the Administrator in reply to alarmist reports in respect of farming. The Administrator had stated that the Standard Bank had been asked to prepare figures of the assets and liabilities of the farmers. Such figures had been prepared in the case of 949 farmers taken at random from districts affected and unaffected by drought. Their assets amounted to £6,000,000 and their liabilities to £1,400,000, so that the surplus was over £4,500,000. This showed that the reports of bankruptcy were false and that, on the contrary, the country was in a sound position.

M. SAKENOBE noted that dams had been constructed in Ovamboland and asked whether similar steps for accumulating water had been taken in other parts of the territory.

Mr. TE WATER replied that the Administration's policy with regard to the water-supply was not confined to Ovamboland. This district had been particularly affected by the drought and had therefore received special treatment. In all districts where water was scarce, the Government was either constructing dams or boring wells and erecting windmills for raising

the water to the surface. It would be seen from page 78 of the report that wells were being sunk in all the various reserves. As a result of these efforts on the part of the Administration, the natives themselves were learning the technique of dam-building.

M. SAKENOBE said that he took special interest in the construction of dams in a territory like South West Africa where there was a scanty supply of water.

EDUCATION.

Mlle. DANNEVIG thanked the accredited representative for his statement regarding native education in the mandated territory and, in particular, for his personal effort to supply a complete answer to one of the questions she had asked in the previous year. She was sure that the Commission appreciated the great interest taken by the Administration, and the progress made in the last three years in native education, which was all the more remarkable in view of the great economic difficulties. As the member entrusted by the Commission with the study of native education it was her endeavour to point out what steps appeared to her to be desirable in the interests of the native. Her sole object in doing so was to co-operate with the Administration. She realised fully the difficulties of the work and felt sure that they would eventually be overcome.

Mr. TE WATER thanked Mlle. Dannevig personally and on behalf of the Administration for this expression of approval and for the keen interest which she took in native education.

RESPONSIBILITY OF THE MANDATORY POWER FOR THE BUDGET OF THE MANDATED TERRITORY VOTED BY THE LOCAL LEGISLATURE.

M. RAPPARD wished to raise a general question regarding the relations between the mandatory Power, the mandated territory and the League. This question arose out of a debate in the House of Assembly of South Africa on February 25th, 1931, in connection with an advance of £136,000 from the Union Government to the mandated territory. It was, however, with the constitutional aspect of the question and not with its financial aspect that M. Rappard was at present concerned. He read the following extract from the debate:

" Mr. HOFMEYR: — It appears from the Minister's statement that the Administration of South West Africa budgeted for a deficit this year on revenue account of £143,000. Is that correct ? If so, was it with the Minister's knowledge and approval ?

" The MINISTER OF FINANCE: — *I do not approve the expenditure estimates of the South West African territory.* They come to me for loan moneys, as the provinces do, but *I do not actually control their expenditure from revenue.*[1]

" Mr. HOFMEYR: — *I am quite aware of that,* but is it appropriate that we should be responsible for finding the deficit of the territory, while there is no control whatever over their budget ? If that is the position, surely it is unsound. It appears from the Minister's figures that the budget, as originally submitted, disclosed a deficit of £143,000. They were allowed to go on with that, and now at the end of the year, they come to us with a deficit of £130,000 and we have to find that. Does the Minister consider that position sound ?

" The MINISTER OF FINANCE: — We have expressed our willingness—and, naturally, it is the only course to adopt—from time to time to finance the territory by means of loan moneys. We have stopped them, as we have stopped the provinces, from going into the open market and obtaining loans themselves. I think that is a perfectly sound position. Naturally, we treat all applications for loans on their merits. At the beginning of the year the Administration was informed that the position would be difficult, and they would have to do as the Union had to do—curtail their expenditure and loans. Naturally, the hon. member will see that, just as little as we in the Union could avoid a deficit, so the territory could not.

" Mr. HOFMEYR: — Is the Minister prepared to extend a similar consideration to the provinces of the Union with regard to their deficits, or is the position different ?

" The MINISTER OF FINANCE: — Yes, the position is different. Our own provinces are operating under Acts of Parliament, and the territory is not.

---

[1] The italics are M. Rappard's.

" Mr. HOFMEYR: — Is there an obligation on the part of the Minister, or is it an act of grace ? If it is an obligation, the position is unsound, and, if it is an act of grace, why is not the same applied to the provinces ?

" The MINISTER OF FINANCE: — *The obligation is merely that of the mandatory Power*,[1] the holder of the mandate. Naturally, we are interested in the finances of the territory, and, if possible, help them out.

" Mr. HOFMEYR: — Is there any obligation in the mandate ?

" The MINISTER OF FINANCE: — No, I do not think so. They are operating under a constitution and not under an Act passed by this House. *I am interested only when they come to me for money*, and I scrutinise their accounts. Naturally, I am not going to bind myself, if they make demands which are unreasonable, to satisfy all these demands; that I am not prepared to do. Under the circumstances obtaining at present, it would be unreasonable of me to take up the attitude that we would not give them assistance at all. *I will see that they take the same steps to effect economies as we* are forced to do here, when we agree to a loan."

M. Rappard pointed out that the Minister of Finance, who represented the Cabinet, had stated that he was not responsible for the budget of the mandated territory. Did this imply that the Government was not responsible for the administration of that territory ? If the Minister of Finance made up the deficit, he did so not on account of any obligation but because he thought it was the right thing to do. M. Rappard pointed out that this created a very embarrassing position. The Commission regarded the mandatory Power as solely and exclusively responsible for the administration of the territory. The presence before the Commission of an accredited representative of the Government of the Union of South Africa showed that there was no disagreement between that Government and the Commission on this point. If, however, the Minister of Finance of the Union was not responsible for the finances of the mandated territory, who was ?

The Commission could deal only with the Government to which the Minister of Finance belonged and not with a local Legislative Council which could not internationally be held responsible for the territory.

Mr. TE WATER said he could only give his personal views. This was an important question which might require an authoritative opinion from the South African Government.

The mandated territory was not in the same position as the provinces. It was not the first time that the question of advances to the mandated territory had been raised. Other sums had in the past been advanced and refunded. He considered that the Minister of Finance was technically correct in stating that there was no obligation to advance money. What the Minister had said must be interpreted as meaning " no legal obligation ".

M. RAPPARD again pointed out that he was not raising the question of finance, but that of the lessened responsibility of the Government of the mandatory Power apparently resulting from the large measure of self-administration enjoyed by the mandated territory. The Commission had already had occasion to discuss this point, but the constitutional question had never been so sharply brought out as by the above statements of the Minister of Finance. The Mandates Commission could only deal with the Government of the Union. When the Minister of Finance said that he was not responsible for the budget of the mandated territory, this might be held to imply that his Government was not responsible for the administration of the territory, as the budget was the keystone of that administration. If the Minister of Finance abandoned control over the finances of the territory, did not his Government—that was to say, the Mandatory—thereby abandon certain rights and certain duties ? It was the Commission's duty to call attention this danger. If the Union Government adopted the attitude of an observer, intervening in the preparation of the budget of the territory only if and when there was a deficit, the chain connecting the League with the mandated territory through the mandatory Government was broken.

The CHAIRMAN pointed out that the question whether the mandatory Power must give financial assistance to South West Africa, when required, had been frequently discussed. Mr. te Water had said there was no legal obligation on the part of the Union Government, as there was no law to that effect. That, no doubt, was true, but under Article 22 of the Covenant the mandatory Power was responsible for the mandated territory and this implied a moral obligation to give financial assistance when required. Naturally, such assistance need not be given at a loss or as a gift. The mandatory Power could require repayment of the advances and, if it so decided, the payment of interest. The mandatory Power had accepted this condition together with the mandate. He thought Mr. te Water would agree with this explanation. As M. Rappard had pointed out, the Minister of Finance, in his reply in the House of Assembly, had apparently lost sight of this moral obligation. The Chairman did not think, however, that the Government of South Africa would refuse financial assistance on the ground that it was not legally obliged to grant it.

[1] The italics are M. Rappard's.

SEVENTH MEETING.

Held on Friday, June 12th, 1931, at 4 p.m.

South West Africa: Examination of the Annual Report for 1930 (continuation).

Mr. te Water, Major Pienaar and Mr. Andrews came to the table of the Commission.

Responsibility of the Mandatory Power for the Budget of the Mandated Territory voted by the Local Legislature *(continuation)*.

Mr. te Water said that, since the morning meeting, he had had an opportunity of scrutinising the full report of the debate out of which M. Rappard's question had arisen.

He had come to the conclusion that the Minister of Finance had clearly shown that it was not his desire to avoid the duties and obligations placed on his Government by the terms of the mandate and by Article 22 of the Covenant. He had replied:

> " We have expressed our willingness, and, naturally, it is the only course to adopt, from time to time to finance the territory by means of loan moneys . . . We treat all applications for loans on their merits. At the beginning of the year the Administration was informed that the position would be difficult, and they would have . . . to curtail their expenditure . . . "

This, Mr. te Water pointed out, showed the close watch kept by the Government on expenditure by the South West African Administration.

The Minister of Finance had stated that " the obligation is that of the mandatory Power—the holder of the mandate ". Mr. te Water argued that, when the Minister subsequently denied that there was any obligation in the mandate, this was to be interpreted in terms of what he had already said. In other words, he denied the legal obligation while clearly accepting the moral obligation. This attitude of the Minister, Mr. te Water submitted, was absolutely correct.

The Minister's attitude reminded him of an eminent South African barrister who invariably replied to the Court's query whether he admitted this or that contention: " I admit nothing, my Lord ". He was inclined to think that this was not a bad working rule for Finance Ministers as well.

Finally, the Minister had replied:

> " I am interested only . . . when the Administration comes to me for money, and I scrutinise their accounts. Naturally, I am not going to bind myself if they make demands which are unreasonable . . . I will see that they take the same steps to effect economies as we are forced to do here . . . "

This, Mr. te Water concluded, showed a correct attitude by a tutor Government towards an Administration to which it had delegated its authority. Nevertheless, if it were desired, a formal reply could be obtained from his Government. On second thoughts and maturer consideration, however, he suggested that, as the question had arisen in Parliament in " hot debate ", so to speak, and as his Government clearly did not propose in any way to depart from the terms of the mandate, the Commission might, in the exercise of a wise discretion, decide that the matter had been sufficiently aired by this discussion.

M. Rappard said that he was entirely satisfied, so far as the question of an obligation on the Union—whether a legal or a moral obligation—to help the territory financially was concerned.

The main point which he had raised, however, was another. Were the budgetary powers of the Legislative Assembly of the territory unlimited ? Or was the mandatory Power in a position to override decisions of the Legislative Assembly, or maybe to extend them, in the interests of the mandate for example, in connection with the education of the natives or some similar question in which the Legislative Assembly, consisting largely of white settlers, might not be greatly interested ?

Mr. te Water replied that the power of veto of the mandatory Power must be considered as implicit in the terms of the mandate, and was explicit in the Constitution itself.

The Union Government, in particular the Department of External Affairs kept the closest watch on the territory, and any departure from administrational principles would, he could assure the Commission, be very closely scrutinised.

Frontier between Angola and South West Africa.

M. Orts recalled that at the eighteenth session the accredited representative had indicated that the final settlement of the question of the frontier between Angola and the mandated territory was still under negotiation between the Portuguese Government and the Government of the Union

of South Africa, and the accredited representative had added that he had been instructed to tell the Commission that his Government would report on the subject as soon as it had any definite information. Had the accredited representative any statement to make on the matter now ? The only reference to it in the report was the observation in paragraph 811 to the effect that " the Angola-Caprivi Boundary Commission will complete its labours during the current year ". This observation only referred to a section of the common frontier with Angola.

Mr. TE WATER replied that the negotiations relative to the Angola-South West Africa boundary were still continuing. The Union Government had laid all its points before the Portuguese Foreign Office in a despatch dated January 26th, 1931. Until the negotiations were conluded, it would not be possible to report further to the Commission.

RESTRICTIONS ON IMMIGRATION INTO THE TERRITORY AND PRINCIPLE OF ECONOMIC EQUALITY.

M. SAKENOBE drew attention to Act No. 8, " which places certain restrictions on immigration into the Union of South Africa and the Territory as from May 1st, 1930 " (paragraph 24 of the report).

He did not contest this legislation on the part of the mandatory Power: it had perfect right to apply such an Act in the mandated territory under Article 22, paragraph 6, of the Covenant, as interpreted by its authors. But as the Japanese Government had always maintained a different view on this point—that was to say—the interpretation of Article 22, paragraph 6, he wished—not as the representative of the Japanese Government, which he was not, but in his private capacity—to remind the Commission of the Japanese view on the principle of economic equality as applied in C mandates.

In June 1919, when the Committee on Mandates first met to discuss and determine the terms of A, B and C Mandates, the representative of the Japanese Government proposed the inclusion in the terms of C Mandates of a provision for equal opportunities of trade and commerce for other Members of the League, as in the case of B Mandates, and maintained that this was the proper interpretation of paragraph 6 of Article 22 of the Covenant. He was, however, in a minority on the point.

The Japanese Government held the view that, in interpreting Article 22 and in defining the mandatory forms therein stipulated, the fundamental principle on which the League of Nations was based should always be kept in mind, and that this fundamental principle precluded the possibility of anything in the nature of unfair or discriminatory treatment of nationals of particular Powers signing the Peace Treaty in any German territory placed under mandatory administration. This was the main issue in the Japanese Government's contentions.

Since that time, negotiations had been continued mainly between the Japanese and British Governments. They continued until December 16th, 1920, when it was finally agreed that there should be an exchange of Notes with an accompanying declaration by the Japanese Government on C Mandates. This declaration was read to the Council on the following day by the Japanese representative. It was in the following terms:

> " From the fundamental spirit of the League of Nations, and as the question of interpretation of the Covenant, His Imperial Japanese Majesty's Government have a firm conviction in the justice of the claim they have hitherto made for the inclusion of a clause concerning the assurance of equal opportunities for trade and commerce in C Mandates. But from the spirit of conciliation and co-operation and their reluctance to see the question unsettled any longer, they have decided to agree to the issue of the Mandate in its present form. That decision, however, should not be considered as an acquiescence on the part of His Imperial Japanese Majesty's Government in the submission of Japanese subjects to a discriminatory and disadvantageous treatment in the mandated territories; nor have they thereby discarded their claim that the rights and interests enjoyed by Japanese subjects in these territories in the past should be fully respected. "

Mr. TE WATER replied that, what M. Sakenobe had said, even though he was speaking in a private capacity, would carry great weight with the Union Government and would be communicated to it at once.

The CHAIRMAN thought the Commission should make its attitude clear in regard to the point raised by M. Sakenobe.

M. Sakenobe had not been present at the first session of the Commission in 1921, when it had been unanimously agreed that the Commission had not the right to discuss the terms of the mandates as approved by the Council. He did not think, therefore, that the Commission could suggest in its report to the Council that the C Mandates should be modified as regards the point raised by M. Sakenobe. Nevertheless, the latter's observations would appear in the Minutes. The Commission as such must rest content with that though this necessity was regrettable, seeing that the declaration made previously by the Japanese Government was, in the Chairman's view, by no means without object, even taking into account the last words of the phrase in paragraph 6 of Article 22 of the Covenant.

M. SAKENOBE agreed and thanked the Chairman for his information. His intention had been to make clear the position of the Japanese Government.

M. ORTS asked whether Act No. 8 was a temporary measure inspired by a wish to lessen the immigration movement as a result of existing circumstances or was it permanent in character.

Mr. TE WATER replied that the question of immigration restrictions had been discussed for many years and had come to a head in the 1929 session of Parliament. The Act must be regarded as a permanent measure, intended to rectify certain discrepancies in connection with immigration.

M. RAPPARD remarked that Great Britain appeared to be absent from the list of countries whose nationals were admitted.

Mr. TE WATER replied that he had also observed the omission in the report. The Act itself, however, contained a schedule in which the British Commonwealth of Nations was included among the exempted countries.

M. RAPPARD asked whether India was included.

Mr. TE WATER replied in the negative.

M. ORTS asked whether the Immigrants Selection Board referred to in paragraph 2 (page 6) was already in operation.

Mr. TE WATER presumed that this was so, as the Act had come into force in the territory in the previous year: but he had no precise information on the point.

M. RUPPEL observed that it appeared from the terms of the Act, which he had before him, that the " territories comprised within the British Commonwealth of Nations " were included in the list of countries whose immigrants were admitted.

REHOBOTH COMMUNITY.

M. ORTS remarked that in the list of Administrative Commissions appointed (paragraph 810 of the report) there was a Rehoboth Commission, the report of which was stated to be " very interesting " (paragraph 813).

The Secretariat had not yet received this report. Had it appeared since the annual report was printed ?

Mr. TE WATER pointed out that paragraph 813 stated that the report was being printed separately and that copies would be forwarded to the Commission in due course. He himself had not yet received a copy.

He would note what M. Orts had said and endeavour to speed up the transmission of the report.

M. ORTS observed that an Ordinance had been promulgated exempting the Rehoboths from the Dog Tax. Was this a measure of pacification or was it a fiscal measure ? If the latter were the case, had this tax been replaced by another ? The Commission remembered that this tax on dogs had given rise to keen protest and had even been used as an excuse for rebellions acts.

Mr. TE WATER said he could not give an authoritative reply; but he remembered the friction in connection with this tax, when he was himself in the Rehoboth territory in 1929; and he thought that the exemption from liability in respect of one dog was probably intended as a measure of pacification.

NATIVE ADMINISTRATION.

M. SAKENOBE referred to the appointment of Native Commissioners in 1930 and enquired what were the relations between the Native Commissioners and the Magistrates. Were these the same ?

Mr. TE WATER explained that there was a slight difference in the administration of native affairs in the Union and in South West Africa. In the Union Native Commissioners were appointed to deal with native affairs. With the exception of Mr. Hahn, in Ovamboland, all the Native Commissioners in South West Africa were at the same time the magistrates of the various districts.

M. SAKENOBE referred to the Native Commissioners' courts and the magistrates' courts mentioned in the report, and asked whether the same man sat in the two courts.

Mr. TE WATER said that these officials could deal with any question in their capacity as magistrates, with civil and criminal jurisdiction: in the native courts they were enabled to deal with native civil questions in conformity with native customs, if these were not *contra bonos mores*. M. Sakenobe was correct in thinking that the same person sat in two courts.

The CHAIRMAN enquired whether one white man, appointed chief of a tribe three or four years previously, still held that very exceptional position.

Mr. TE WATER thought that that must have been Mr. Hahn, whose choice at the time had represented the solution of a tribal difficulty.

M. RUPPEL, referring to the text of the new regulations, asked how the native assessors in the native courts were appointed.

Mr. TE WATER explained the procedure in the Union. In reply to M. Ruppel's request for fuller information in the next report, the accredited representative said that the Mandatory would gladly elaborate the point.

M. RUPPEL referred to a passage in the report (paragraph 459) which described the greater portion of the road from Tsumeb to Ondangua as " exceedingly heavy ", so that the transport of supplies had become difficult and expensive, amounting to £1 per bag for meal. Before the war there had been a plan to build a railway to Amboland, and funds had, he believed, actually been allocated. He enquired whether the present Administration had considered constructing such a railway.

Mr. TE WATER was unable to say whether the Administration had considered this possibility, but on broad lines he could say that there was very little probability of new lines being constructed in the near future, for economic and financial reasons. The next report would deal with that point.

PUBLIC FINANCE: LOAN POLICY.

M. RAPPARD opened his remarks on the financial situation by observing that for the first time the Commission was deprived of the pleasure of congratulating the Administration on its revenue. This, of course, implied no criticism. It was obviously the result of the general depression. In addition to the very full information given in the report (paragraphs 97 *et seq.*) he would have welcomed some indication as to the policy to be followed in future. The deficit was very heavy and the debt was becoming important. He enquired if new taxes were contemplated to weather the storm, or advances from the Union Government, or reduction of expenditure.

Mr. TE WATER said that he could only point out to the Commission the new taxes levied during the year under review (paragraph 113 of the report). He agreed that the question of a future policy was important. This had not been communicated to him, but the information could, if necessary, be obtained before the next session.

M. RAPPARD did not wish to ask for any information which was not available. The mandated territory, however, was large and populated and called for a fully considered fiscal policy. He enquired whether the consideration of that policy lay with the Union or was left to the Administrator on the spot.

Mr. TE WATER stated, in reply, that the Administration acted in closest touch with the Union Government in regard to economic policy and taxation. It had, for example, been in close touch with the Government in the matter of altering the incidence of taxation on diamonds. The new system (10 per cent on export) would help to stabilise finances. In respect of economic policy he would refer, as an example, to the question of the incidence of protective Customs and dumping duties in regard to which the Administrator is reported to have said:

> "I have raised with the Union Government the question of the incidence of high protective Customs and dumping duties on the cost of living, and the loss of revenue to the territory. I am glad to be able to report that negotiations are proceeding satisfactorily, and that the matter is receiving the sympathetic consideration of the Government. If the proposals submitted are accepted, considerable revenue to the Administration and a reduction in the cost of certain essential commodities should result. "

As information regarding the Administration's economic policy and its efforts to expand markets, Mr. te Water would like to quote further from the same speech:

> " The Trade Commission which last year visited various countries on the West Coast of Africa to investigate the possibilities of opening up markets for our products has submitted its report. It is not proposed to publish the report, but it is encouraging, and the Administration is prepared to furnish interested parties with full information and to give them all the assistance in its power with a view to the development of trade. "

M. RAPPARD said that he was much obliged for the accredited representative's statement. The necessity for some authority to deal with finances in the mandated territory could be foreseen, as the present system of merely " keeping in close touch with the Union " might not be found to be sufficient: he was alarmed by the figures.

There appeared to be some discrepancy between the figures given in paragraphs 105 and 97. In the first-named paragraph the revenue for nine months ended December 31st, 1929, from mining

profits and royalties was £115,167 while in the second the revenue for the whole fiscal year 1929-30 from mining royalties, profits and leases was £115,551.

Mr. TE WATER suggested that there had probably been no revenue from diamonds, over the final quarter of the financial year and referred to paragraphs 130 and 131, where a clear indication was given as to the reduction in the revenue obtained from diamonds. He stressed this point and quoted the relevant passage:

> " The diamond market did not revive during the year. On the contrary, things went from bad to worse, and, so far from deriving any revenue from diamonds, the Administration has been obliged to refund to the Consolidated Diamond Mining Company a sum of £17,000 paid by way of provisional tax during the first quarter of the year. "

M. RAPPARD observed that the important feature was the serious drop recorded. He referred to the mining royalties mentioned in paragraph 107, and enquired what ground there was for the hope that a 10 per cent export duty would yield a stable revenue. How could a 10 per cent duty on a fluctuating market ensure a stable revenue ?

Mr. TE WATER explained that the old method had been rather involved, and had meant that the Administration might have to refund certain amounts paid in advance. With a system of payment on actual exports the revenue from this source would be more stable. He interpreted the last clause of paragraph 107 as meaning that the Administration would get an assured income, with no question of any refund.

M. RAPPARD, referring to the Loan Account, mentioned the sum of £500,000 advanced by the Union Government for the settlement of Angola farmers. He noted, as stated in paragraph 104 of the report, that the various sums paid to the Administration in connection with the Angola Settlement Scheme were not included in the liability to the Union Government. He suggested that the amount in question might be in the nature of a grant-in-aid.

M. RUPPEL, quoting Act No. 34 (mentioned in paragraph 24), noted that those payments of £500,000 were there qualified as " grants to the territory " and that another passage stated that these grants " shall be repayable at such time and in such conditions as the Governor-General may impose ". He enquired if by this clause the Governor-General was authorised to impose the liability for the £500,000 on the territory of South West Africa.

Mr. TE WATER felt that it might be wiser not to make any statement on this question without reference to his Government. He noted M. Ruppel's request that the next report might contain a definite statement on the matter.

M. RAPPARD, commenting on the loan policy, observed that, when a municipality needed a loan, it applied to the Administration of the territory. When the Administration needed a loan, it applied to the Union, and the Union, in its turn, often applied to London. In other words, small bodies were kept out of the public market. The position was just the contrary in Switzerland. He enquired what was the purpose of that policy of financial centralisation as opposed to the policy decentralisation which prevailed in the general realm of administration.

Mr. TE WATER explained the policy of the Union in the past in relation to the borrowing powers of the Provinces. It had to be remembered that the Union of South Africa was a Union and not a federal constitution. Moreover, the Central Government would obtain better terms on the London market than the Provinces.

M. RUPPEL observed that the interest rate on the loans given by the Union appeared to be over 7 per cent; the total sum of interest paid during the last financial year according to the accounts amounted to £44,500.

Mr. TE WATER said that that figure could not necessarily be deduced from the data given in the report. Money was generally borrowed on the London market at about 5 per cent, the last loan having been issued at £95 10*s.* with the rate of interest 4½ per cent. He would have to ask for information as to interest rates paid by the Administration to the Union Government.

M. RUPPEL asked the accredited representative to give in the next report some information regarding the purposes for which the loans had been spent. They had been employed apparently partly for productive purposes and partly for covering deficits.

Mr. TE WATER said he would ask for information to be supplied on the subject.

ECONOMIC SITUATION AND FUTUR DEVELOPMENT OF THE TERRITORY

M. MERLIN said that most of the points on which he had intended to ask for information had been dealt with during the general discussion, and thanked the accredited representative for his replies. He felt some anxiety as to the more or less fundamental and lengthy consequences of the persistent drought on the economic situation of the territory. Relying, however, on the experience of the local authorities and the declaration made by the accredited representative, he welcomed with satisfaction the assurance that not more than three years would be needed

to place matters once again on a satisfactory basis. He noted, however, that commerce (exports and imports) showed a reduction of a million pounds sterling, and enquired whether the protectionist policy adopted by the Union to encourage its young industries and which applied also in the territory under mandate—a territory which was primarily agricultural—was not prejudicial to the interest of South West Africa itself. He quoted in support of his argument the following passage from the *Temps* of May 22nd, 1931:

[*Translation.*]

> " South West Africa has just sent a delegation to General Hertzog, Prime Minister of the Union of South Africa, asking him to accord a credit of £50,000 sterling to assist farmers and the unemployed. The deputation pointed out the extent to which South West Africa was suffering from the protectionist tariffs established by the Union. Every year the mandated territory pays £90,000 for its sugar, and £46,000 of that sum goes to the sugar planters in Natal. The situation is the same as regards flour, leather goods, clothing, tobacco, and other articles also covered by the tariffs established with the object of protecting Union industries. South West Africa asks accordingly that the Mandatory should be responsible for the interest on, and amortisation of, the proposed loan, on the grounds that it derives revenue from the territory under its mandate. "

Mr. TE WATER said that, as regards the application in South West Africa of the protectionist policy of the Union, the question had been raised by the Administrator with the Union Government and, as had been stated previously, negotiations were proceeding satisfactorily. As regards the drought and the question of recovery, he observed that it was proposed to grant advances to farmers and quoted the following passage from the Administrator's speech at the opening of the Assembly:

> " It is proposed, through the medium of the Land Bank and Land Board, to give limited advances to deserving farmers to assist them to re-establish themselves. To assist these two bodies, a local advisory committee will be established in each district. The necessary enabling legislation has already been effected. "

M. RAPPARD noted that the only export showing an increase was the Liebig Company's products. He enquired whether this fact was in any way connected with the drought.

Mr. TE WATER surmised that the cattle must have been in a poor condition and that the general economic situation was such as to have enabled purchasers to buy cheaply. This might have accounted for the increased activity.

Mlle. DANNEVIG, referring to paragraph 896 of the report, enquired what goods were imported from Norway.

Mr. TE WATER suggested that timber, which he knew was imported from Sweden, was probably also imported from Norway.

M. RUPPEL noted with interest that the Administration had changed its mining policy and had granted in the last year two big concessions, one over an area of 48,150 square kilometres, the other over 57,350 squares kilometres. He agreed with the passage in the report (paragraph 203) to the effect that the results of the operations of the two companies in question must be of importance, not only from the point of view of the mineral development of the territory, but with a view to determining whether the policy of replacement of the small prospector and speculator by a mining company with adequate means had been justified.

JUDICIAL ORGANISATION.

M. RUPPEL noted the big increase in the number of criminal cases tried by the High Court and Circuit Courts and enquired whether this was due to economic conditions.

Mr. TE WATER replied that it was not necessarily so, his experience being that an increase in crime might be due to increased police activity.

M. RUPPEL pointed out an apparent inconsistency in the references to the Girls and Mentally Defective Women's Protection Proclamation (No. 28 of 1921): under paragraph 38 the number of contraventions was given as three, while on page 13 eleven cases were mentioned.

Mr. TE WATER said that he would draw attention to the discrepancy in question.

M. RUPPEL asked that the Commission might have statistics every year of crimes committed by natives against Europeans and by Europeans against natives.

Mr. TE WATER noted this request.

Police.

M. Ruppel observed that the force had decreased, while expenses had increased, and said that he would be interested to have some explanation.

Mr. te Water stated that he was unable to give an immediate answer. In the Union, economy accounted for vacant posts not being filled.

M. Sakenobe, referring to paragraph 416 of the report, enquired how the tribe of Ukuanyama in Ovamboland had been disarmed. He understood that the tribes in Ovamboland were well armed and their disarming was a very difficult matter.

Mr. te Water said that Major Pienaar had reminded him that towards the end of the war, on the occurrence of some disturbance in Ovamboland, a force had been despatched from South West Africa to deal with the situation, and might have taken the opportunity to disarm some of the tribes.

M. Sakenobe enquired who would constitute the first line force in case of need, the police or the burghers.

Mr. te Water replied that in the Union the police were popularly looked on as the first line. The police were trained in the use of arms. Reference to the 1929 report (paragraph 56) showed that the force was mounted and the European section armed.

He answered in the affirmative M. Sakenobe's further question whether the police had machine-guns.

Social Condition of the Natives.

Mlle. Dannevig found the report very interesting on the subject of social conditions. She observed a great change as compared with the position in 1928 and suggested that the improvement might be due perhaps to the " eye that saw " as much as to the actual change in those conditions. Referring to the Caprivi Zipfel, Mlle. Dannevig understood that conditions in that part of the territory were entirely different from those in South West Africa proper.

Mr. te Water replied that the work was progressive and was beginning to show results. He had himself noticed the efficiency and zeal of those responsible for it. In the Caprivi Zipfel the rainfall was as much as thirty inches a year: it might indeed be described as a land flowing with milk and honey. Conditions were much better than in the South West territory and the country would be much easier to administer.

Mlle. Dannevig commented on the large number of wild animals and observed that the natives were not allowed to shoot them, except in very definite cases. She supposed that this was with the object of protecting the animals, but wondered whether the natives might sometimes be in danger.

Mr. te Water agreed, and said that the situation was the same in the Union, especially in the north, where the lion was a problem. He pointed out, however, that the white man was always called in and was very willing to help. The Union went on the principle of protecting the indigenous fauna of the country and South West Africa was doing the same.

Mlle. Dannevig raised the question of the fencing of boundaries, mentioned in paragraph 553, as one of the improvements effected during the year and mentioned again in paragraph 615, where it was stated that the boundaries of the native reserves did not permit a removal of stock.

Mr. te Water pointed out that the Administration had endeavoured in all cases to help the natives in moving their cattle. Arrangements had been made whereby certain natives could move their stock to privately-owned farms (paragraph 551); but the cattle had become weak, and the distances were great. The erection of boundaries was a matter of policy, in order to prevent tribal difficulties, and these higher considerations had complicated a difficult situation.

M. Palacios observed that on the Kaokoveld there had been some protest in regard to the movement of a certain tribe. Was drought perhaps the explanation ? There appeared also to be rivalry between the Chiefs Oorlog and Muhona Katiti which might give rise to difficulties (page 71 of the report).

Mr. te Water recollected that there had been tribal trouble and even danger of bloodshed. The movement of the tribe in question had been effected with considerable difficulty. He understood that the tribes were becoming reconciled to the position.

EIGHTH MEETING.

Held on Saturday, June 13th, 1931, at 11 a.m.

South West Africa: Examination of the Annual Report for 1930 (continuation).

M. te Water, Major Pienaar and Mr. Andrews came to the table of the Commission.

Education *(continuation)*.

Mlle. Dannevig thanked the mandatory Power for the very detailed and valuable information on the education of native children. As regards the statement in paragraph 312 she observed that it had obviously never been the idea of the Mandates Commission that the aim of education should be to Europeanise the natives but, on the contrary, to convert them into better natives.

She was glad to note the co-operation established between the Administration and the missions in the matter of education. Personnally, she did not much believe in hostels where children and young people were taken away from their natural surroundings, but she suggested that useful results might be obtained by correspondence classes and broadcasted lectures for advanced pupils in schools in remote districts.

Mr. te Water asked Mlle. Dannevig to amplify her suggestion regarding correspondence classes, so that he could communicate it to his Government. He suggested discusssing this matter with her privately.

Mlle. Dannevig noted the difficulty of training native teachers and referred to the interesting information on this subject given by the Rhenish Mission and reproduced in paragraph 612.

From the statistics given in paragraph 368, she noted that in some cases, as many as 90 boys and girls were taught by one teacher. She asked if it were possible for even well qualified teachers to give satisfactory instruction under such conditions.

Mr. te Water said this question had been previously raised. There was an insufficient supply of trained teachers and the Administration was doing everything it could to increase the number.

Mlle. Dannevig quoted paragraph 319 of the report to the effect that the children in the urban areas were provided for on the same lines as the children in rural areas. She thought there was a greater need for education in the towns than in the country districts.

Mr. te Water agreed and said that, though the type of education was the same in both cases, more education was given to children in the towns. Moreover, the natives in the towns, by constant contact with the white man and his ways, absorbed civilisation more rapidly. Unfortunately, at the same time in many cases, they adopted the bad habits of civilisation.

Mlle. Dannevig referred to the figures quoted in paragraph 369, which showed that in the Finnish mission schools there were three times as many girls as boys. She asked if this was due to the instruction in basket-making given in those schools.

Mr. te Water replied that parents frequently used the boys for herding their stock and were, therefore, more averse to sending them to school. They realised that the girls could obtain knowledge in these schools which would lead to their obtaining employment and better wages. This did not apply to the same extent to the boys.

Mlle. Dannevig noted the remark in paragraph 336 that the knowledge of carpentry gained by the boys was not often utilised after they left school. Would it not be possible to teach some other trade than carpentry ?

Mr. te Water replied that the difficulty was due to the fact that skilled workers in South West Africa were almost invariably white men.

Labour.

Mr. Weaver noted that the report contained much valuable information regarding native labour. He thanked the accredited representative for replying so fully to the questions which he had asked last year.

He had read with much interest the account of the relief measures for the Ovambos; he had also noted with much satisfaction that the death rate had fallen to 28.12 per 1,000. He wished to congratulate the Administration on these achievements. Among the Ovambos from Angola,

however, the death rate was still very high; at Tsumeb, this death rate was 50.80 per 1,000. This showed that the problem of safeguarding the health of these natives was not yet solved. Professor Campbell (see paragraph 722 *et seq.* of the report) had stated that the main factor was the non-immunity of " new " races—*i.e.*, new to the conditions of compound life entailing exposure to comparatively massive infections. He asked what was the policy of the mandatory Power as regarded this difficulty. Would it trust to an improvement in medical arrangements or would it cease recruiting Ovambos ?

Mr. TE WATER thanked Mr. Weaver for his praise of the efforts being made by the Government to reduce the death rate at the mines, which would be appreciated by the Administration. He pointed out that the general death rate had fallen, not only because there had been less influenza than in other years, but on account of the administration's efforts to combat disease in general. The Administration recognised that as regards the death rate among the Ovambos the position was not yet satisfactory. It was probably correct to say, as the experts had done, that this was due to the non-immunity of new races. The question of ceasing to recruit natives from Angola and Ovamboland was one of policy which could be referred to the Administration for reply. There appeared to be no urgency as, owing to the surplus of labour and the small demand, the number of recruits from these areas would probably not be so great at present.

Mr. WEAVER asked whether the Administration had accepted Professor Campbell's recommendations contained on page 107 of the report, in particular No. 6 to the effect that at the commencement of an epidemic the introduction of new recruits should be limited and, if possible, cease.

Mr. TE WATER assumed that, as in the case of Dr. Fischer's recommendations, those made by Professor Campbell would be examined and put in practice. Definite information would be obtained on this point.

Mr. WEAVER pointed out that paragraph 665 on page 91 of the report was obscure. It stated that the mine authorities fully appreciated that it was in the interest of the mining industry for the Administration to act as guardian to the native employees and so to prevent their being influenced by agitators. He asked whether this meant that the Administration discouraged any attempt among mine workers to organise themselves.

Mr. TE WATER said the policy of the authorities was similar to that of the Union; the authorities discouraged any ill-advised agitation which might lead to disturbances. Mr. Weaver would realise from his own experience in South Africa that, if the native came under the influence of agitators, old feuds were apt to be revived and tribal conflict was a natural consequence.

Mr. WEAVER said he had had this possibility in view and wished to know whether such difficulties had in fact arisen.

Mr. TE WATER said he could not state as a fact that such trouble had arisen, but from one's knowledge of the native it would be realised that it was necessary constantly to guard against the possibility of this kind of trouble.

Mr. WEAVER raised the question of European employees. Some years previously the question of the relations between the Administration and the Workers' Union of South West Africa had been raised. He was interested to know whether the Administration had been able to give any satisfaction to the desires of this Union. Among their wishes was the extension of South African labour legislation to South West Africa. What was the present position, and were relations between the Administration and the Union now more harmonious ?

Mr. TE WATER said he had no instructions or information and would report next year.

MISSIONS.

M. PALACIOS thanked the mandatory Power for the detailed information given regarding the work of the missions during 1930. The latter continued to show considerable activity in connection with education and assistance. He would not examine in detail the questions which arose as a result of this activity. The chief problem, however, seemed to be that raised by the Church of England (paragraph 657 of the report)—namely, the shortage of men (" the shortage of clergy is being felt all over the world ") and money. This was a serious problem, for, if the churches were unable to carry out the work of civilisation to which they consecrated their time, the State must undertake this duty and must endeavour to obtain the money necessary for the purpose, just as it would do for any other object with which it had to deal.

Mr. TE WATER said the Administration and the missionaries were working in the closest co-operation. The Administration realised that it must ultimately take over the education of the territory but there was complete agreement that the time was not yet ripe. It would be realised that, in spite of hard times, the Administration was spending more than ever before on native

affairs. The particular complaint about the shortage of men and money referred to by M. Palacios had been made by the English mission. No such complaints had been recorded by the other missions.

M. Palacios hoped the mandatory Power would continue in the future to supply the Mandates Commission with information concerning the work done by the missions in the territory under mandate.

Traffic in Alcoholic Liquors and Drugs.

Count de Penha Garcia noted the decrease in the imports of all spirits except brandy during 1930, as shown on page 15 of the report. The table on page 12 also showed that there were fewer convictions for contraventions of the liquor law. He asked if this was the result of legislation or of the economic depression. He also enquired to what the increase in brandy imports could be attributed.

Mr. te Water thought the decrease in convictions was to some extent due to the economic depression. In good years, the natives drank more heavily and produced more kaffir beer. He referred to paragraph 50 of the report which stated that the Act for the Suppression of Harmful Drugs was being rigidly enforced. The use of " dagga " usually went hand in hand with drinking, and he had no doubt that the supervision in both respects had been tightened up.

He could not state the reason for the increased imports of brandy, but, in any case, this did not affect native consumption, as the brandy imported was consumed by the white population.

Count de Penha Garcia thanked the mandatory Power for the information supplied on pages 151 to 153 of the report regarding beverages consumed by the natives. He had asked for this information as he thought it advisable to make such an investigation for all mandated territories. When the investigation was complete he would be in a position to ask further questions on this subject.

Mr. te Water said he understood the reason for this investigation and considered the information collected would be valuable to the South West African Administration.

Public Health.

M. Ruppel observed that whereas is the previous year there had been three whole-time medical officers, of whom two were in Ovamboland, in the last year (1930) there was only one whole-time district surgeon for Ovamboland (paragraph 731). Why this reduction ?

Mr. te Water replied that the reduction had no doubt been made for purposes of economy. It was, however, also happily the case that disease in South West Africa had been less than in previous years. The Commission might rest assured that, if more doctors were required, they would be provided by the Administration.

M. Ruppel remarked that the same thing appeared to be true in the case of private doctors. In 1930, there were only thirty registered medical practitioners in the territory, whereas in the previous year there were thirty-five (paragraph 735). Had the five doctors left the territory ?

Mr. te Water had no direct information on the point, but he inferred that the reduction in the numbers was due to the same cause—that was to say, to the absence of sufficient patients to enable the doctors to make a living. Probably in the circumstances they had moved to the Union.

M. Ruppel was grateful to the mandatory Power for the new regulations enabling nurses and midwives with foreign qualifications to become registered in the mandated territory (paragraph 737). The new regulations entirely met the wishes he had expressed a year ago. He wondered, however, whether the Administration would consider the extension of the time-limit prescribed in the regulations beyond December 31st, 1933.

Mr. te Water would transmit M. Ruppel's suggestions to his Government.

M. Ruppel asked what were the sanitary services which the report said " were adversely commented upon " (paragraph 742).

Mr. te Water replied that there was no doubt that the sanitary services in the rural areas were primitive as compared with those in the towns. The fact that the Administration had included a reference to this comment in the report no doubt implied its intention to take steps in the matter.

M. RUPPEL remarked that, in paragraph 756, the total expenditure incurred in connection with the treatment of natives was given as £8,514, but, in paragraph 111, he found that the total public health expenditure amounted to £11,000. What was the explanation of the difference between these two amounts ?

He further noted that the expenditure in connection with the treatment of natives had decreased from £10,760 in the previous year to £8,514. To what was this due ?

Mr. TE WATER had also noticed the difference in the figures given in paragraphs 756 and 111. He would make enquiries with a view to a clearer statement of the position in the next report. He thought the probable explanation was that the figure in paragraph 756 referred to State-owned hospitals only, whereas the figure given in paragraph 111 included the hospitals of the missions.

The reduction in the expenditure on the treatment of natives was probably due to the fact that fewer natives were employed during the year on the mines and that the health in general of the natives during 1930 was better than in the previous year.

M. RUPPEL asked whether in the next report the subsidies granted to the missions for these purposes could be included in the total ?

Mr. TE WATER replied in the affirmative.

M. RUPPEL drew attention to the particulars given in paragraph 770 with regard to cases of leprosy. He quoted from an article in the *Windhoek Advertiser*, from which it appeared that, a few years previously, leprosy was unknown in the territory, whereas there were now apparently thirty cases.

The position was not yet dangerous, and he did not doubt that the Administration had the situation well in hand.

Mr. TE WATER said the existence of leprosy in the territory was indeed a serious matter. He thought more information on the subject might well be given in the next report. He observed, however, that the twenty-eight cases reported from Ovamboland (paragraph 770) were not new cases.

M. SAKENOBE pointed out that leprosy was stated to be " fairly common " in Caprivi Zipfel (paragraph 797).

He further drew attention to the prevalence of venereal diseases in Ovamboland; the figures were somewhat alarming. The percentage of married natives suffering from these diseases was put at as much as 80 per cent (paragraph 783). Had the Government any measures in view for fighting this scourge ?

Mr. TE WATER said there was no problem so clamant as that of venereal diseases amongst the native population. It was the old problem of the non-immunity of new races to a European disease. The utmost difficulty was experienced in getting the natives to appreciate the need for treatment. In South West Africa, as in South Africa, the men were not prepared to continue treatment long enough to effect a cure, while the women would not come forward at all.

Many authorities in South Africa took the view that, as these diseases became endemic, the native races would develop further powers of resistance to them.

Mlle. DANNEVIG asked whether the medical inspection of schoolchildren referred to in paragraph 746 related only to white children, or did it include native children.

Mr. TE WATER thought that the medical inspection in question might include native children, but this question would be brought to the notice of the Administration.

Mlle. DANNEVIG asked whether there was no means of making midwives available for native women in childbirth.

Mr. TE WATER pointed out that paragraph 784 related to Ovamboland, and here the authorities were up against the native custom which was to leave the mothers to bear their children unaided and without any persons being present.

DEMOGRAPHIC STATISTICS.

M. RAPPARD drew attention to the very high birth rate and low death rate figures recorded in paragraph 93. He supposed the explanation was to be found in the abnormal structure of the age-groups of the population—that was to say, in the fact that the number of marriageable persons was above the normal.

Mr. TE WATER thought there was much to be said for this theory.

M. RAPPARD enquired whether the " British naturalised " immigrants referred to in the tables on page 18 of the report were Germans who had become naturalised British subjects.

Mr. TE WATER had no authoritative information on the point, but thought M. Rappard's surmise was probably correct.

M. RUPPEL drew attention to the notes at the foot of tables iii on pages 18 and 19 (" Number and Nationality of Persons Entering and Leaving Territory by Land ") to the effect that details of the object of entry by land—*i.e.*, whether assuming domicile or visiting, and of the object of departure—*i.e.*, whether relinquishing domicile or temporary absence were not available. Could not instructions be issued to the frontier authorities to obtain these details ?

Mr. TE WATER replied that he would pass on M. Ruppel's suggestion. There might be difficulties of which he had no knowledge: but he agreed that the information, if it could be obtained, would be of interest.

CLOSE OF THE HEARING.

The CHAIRMAN said that he had great pleasure in placing on record the Commission's recognition of the co-operation, given this year as in the preceding year, of the accredited representatives of the Government of the Union of South Africa. The Commission highly appreciated the frank and cordial manner in which all the questions put had been answered so far as it was possible to do so.

The accredited representatives might rest assured that, even when the questions put might seem at first sight not to arise out of the terms of the mandate, they had nevertheless an object in the minds of those who put them, and that object was the desire for a fruitful, instructive and friendly relationship between the Mandates Commission and the mandatory Power.

He thanked Mr. te Water, Major Pienaar and Mr. Andrews for their co-operation in the accomplishment of a delicate and difficult mission.

Mr. TE WATER thanked the Chairman and the members of the Commission, on his own behalf and on behalf of Major Pienaar and Mr. Andrews, for the courtesy with which they had once again been received.

Happy relations between the Commission on the one hand and the mandatory Power and its accredited representatives on the other were a factor of the first importance in the successful administration of the mandated territories.

A measure of praise was a great encouragement to those engaged in the work of administration; and what the Commission had said in commendation of the work done in South West Africa would be very greatly valued by the Administrator and his officials and by the Government of the Union.

He would not fail to pass on the suggestions which had been made by members of the Commission.

He was anxious also to pay his tribute to M. Catastini and the staff of the Mandates Section for their never-failing help and collaboration.

Mr. te Water, Major Pienaar and Mr. Andrews withdrew.

Tanganyika: Scheme for a Closer Administrative, Customs and Fiscal Union of the Mandated Territory of Tanganyika with the Neighbouring British Possessions of Kenya and Uganda.

M. PALACIOS observed that the question of the scheme for a closer administrative, Customs and fiscal union of the mandated territory of Tanganyika with the neighbouring British possessions of Kenya and Uganda was included in the agenda of the Session.

In November 1930, the Commission had again adjourned the examination of the question until the British Government had communicated to it the terms of its decision, in accordance with the undertaking noted by the Council on September 6th, 1929.

The Commission had not yet been informed of the decision in question and there was reason to think that it would not be possible for it to be communicated before the November session of the Commission. It appeared that the work of the British Joint Parliamentary Committee, to which this question had been entrusted, was not yet finished.

Lastly, as the examination of the annual report on Tanganyika for 1930 had been adjourned until the autumn session, the Commission would not be in a position to ask the accredited representative for further enlightenment and information.

M. Palacios therefore proposed that the Commission should decide to remove from the agenda of the present session the question of the scheme for a closer administrative, Customs and fiscal union of the mandated territory of Tanganyika with the neighbouring British possessions of Kenya and Uganda.

The Commission adopted M. Palacios' proposal.

NINTH MEETING.

Held on Monday, June 15th, 1931, at 10.30 a.m.

The CHAIRMAN thanked the Commission for the honour which it had done him in reelecting him to the chair. He expressed his very grateful thanks to M. Van Rees for having so kindly acted for him in his absence.

Palestine: Question of Procedure raised in connection with the Examination of the Annual Report for 1930.

He wished, before inviting the accredited representatives of the mandatory Power to enter, to submit certain observations to the Commission, and to invite his colleagues to make suggestions as to the procedure to be followed by the Commission on the present occasion.

The Chairman reminded his colleagues that, in November 1930, they had adjourned the examination of two documents concerning the status of Palestine—namely: (1) Statement of Policy by his Majesty's Government, October 1930 (Cmd. 3692); (2) Report by Sir John Hope Simpson on Immigration, Land Settlement and Development of Palestine (Cmd. 3686).

In addition to these two documents, which had been communicated to the Commission by the mandatory Power, the Commission had subsequently received the text of the letter sent on February 13th, 1931, [1] by the British Prime Minister to Dr. Weizmann, which was intended to interpret the declaration of October 1930.

The Commission had announced, in its report to the Council on the work of its nineteenth session, that it would examine at the present session the statement dated October 1930 and Sir John Hope Simpson's report at the same time as the annual report, taking advantage of the presence of the accredited representatives of the mandatory Power.

In order to avoid unnecessary discussion, the Chairman asked the Commission to decide in advance whether it considered that these various documents should form the subject of a separate examination or whether it would prefer to ask the accredited representatives questions concerning them during the examination of the annual report on Palestine, when studying the chapters dealing with the subjects to which the documents in question related.

As regards the comments addressed by the mandatory Power to the Council on the observation contained in the report on the extraordinary session held in June last year, the Chairman reminded the Commission that, in November 1930, it had decided not to make them the subject of a special discussion. It had been agreed that members of the Commission, should they think fit, might revert during the examination of the annual report for 1930, to certain observations formulated in August last by the British Government. The Chairman thought, as regards this particular question, that his colleagues would agree with him that the initiative should be left to those members of the Commission who, during the discussion, might consider it desirable to obtain further explanations. He asked his colleagues if they were in agreement with these views.

M. VAN REES agreed with the last suggestion of the Chairman. During the nineteenth session of the Commission, he had already expressed the opinion that it would be better not to examine the various points separately, a procedure which would, moreover, take too long. He was in favour of the Chairman's suggestion that the members should be left to put such questions as they might think fit. As regards the first point mentioned by the Chairman, he felt that it would be difficult for the Commission to go in detail into each subject mentioned in the official documents in question. The White Paper and the letter addressed to Dr. Weizmann, which constituted basic documents for the discussion on Palestine, could clearly not be passed over in silence; but, as regards other documents, such as the Hope Simpson report, it was not materially possible to examine them—that was, they could not form the subject of a special examination.

M. ORTS and M. MERLIN endorsed this view.

M. ORTS recalled that already during the ninteenth session of the Commission he had raised objections to certain statements in the British note of August 2nd, 1930, [2] and that his declaration had appeared in the Minutes as an expression of the unanimous opinion of the Commission.

Palestine: Examination of the Annual Report for 1930.

Dr. T. Drummond Shiels, Parliamentary Under-Secretary of State for the Colonies; Mr. M. A. Young, Chief Secretary to the Palestine Government; Mr. R. V. Vernon and Mr. O. G. R. Williams, of the Colonial Office, accredited representatives of the mandatory Power, came to the table of the Commission.

---

[1] Document C.173.1931.VI [C.P.M.1139].

[2] See Minutes, Permanent Mandates Commission. Nineteenth session, pages 72 and 73.

Welcome to the Accredited Representatives.

The Chairman had much pleasure, on behalf of the Commission, in extending a cordial welcome to the accredited representatives of the mandatory Power.

The Commission had already had an opportunity, in the previous year, of collaborating with Dr. Drummond Shiels, and he felt sure he was interpreting the unanimous opinion of his colleagues in stating that the Commission fully appreciated the British Government's decision again to send as its accredited representative, for the examination of the annual report on Palestine, the British Parliamentary Under-Secretary of State for the Colonies. The Commission understood that Dr. Drummond Shiels had visited Palestine some months previously, and it would thus have the benefit of hearing his personal views, formed on the spot, on several questions which were regarded by the Commission as of the highest importance.

He desired also to welcome on behalf of his colleagues Mr. M. A. Young, Chief Secretary to the Palestine Government, who has been sent with Dr. Drummond Shiels by the mandatory Power, and whose presence would no doubt enable the Commission to obtain explanations on many points of detail.

Before inviting his colleagues to discuss the annual report, he desired, in conformity with the usual custom, to invite the accredited representative to make a general statement on the situation, should he consider this necessary or opportune.

General Statement by the Accredited Representative.

Dr. Drummond Shiels thanked the Chairman and members of the Commission for their very kind welcome. He expressed his pleasure at appearing again before the Commission, and introduced his colleagues by name.

He said that he would be glad to take advantage of the Chairman's invitation to make a general statement, before proceeding to questions on the report.

The accredited representative made the following general statement:

I have again the honour of appearing before the Permanent Mandates Commission, during its consideration of the Palestine report, as accredited representative of the British Government, this time under happier auspices than last year. On that occasion, the atmosphere was still agitated as a result of the deplorable occurrences of 1929. Since then, however, I am glad to be able to say that, although it must be admitted that tension still exists in the political atmosphere of Palestine, and that the country has not escaped the effects of the worldwide economic depression, nevertheless, a period of quiet has ensued as compared with the disturbed conditions of the preceding year. Without wishing to appear in any way complacent, I venture to say that it is a source of satisfaction to His Majesty's Government that the measures taken to prevent a recurrence of disorder have proved efficacious. As an instance, I might mention that the period of Easter, both in 1930 and 1931, passed off quietly, save for a few isolated incidents. When it is remembered that, in both these years, the Easter period and those of the Jewish Passover and of the Moslem festival of Neb Musa largely overlapped each other, thereby producing a period of exceptional tension and religious excitement, it is indeed satisfactory that things passed off so quietly. I should like, in that connection, to pay a tribute to the efficiency of the arrangements made by the local administration which led to so satisfactory a result and which also gives some evidence of the progress made by the re-organisation of the police force.

While, as I have indicated, 1930 may be contrasted with 1929 as a period of quiet following a period of unrest, it has also been a period devoted to investigation, enquiry and report. In the first place, Sir Herbert Dowbiggin, one of the ablest police-officers in the overseas service of the British Empire, was sent to Palestine in January 1930 to advise on the re-organisation of the Palestine police. His report was submitted in May of last year. There has also been a report of a Committee appointed by the High Commissioner in April 1930 on the economic condition of agriculturists in Palestine and the fiscal measures of government in relation thereto. This was followed by the report of Sir John Hope Simpson (Cmd. 3686) (presented towards the end of August 1930 and published in October of that year) on immigration, land settlement and development. At about the time of the presentation of Sir John Hope Simpson's report, Mr. G. F. Strickland, of the Indian Civil Service, presented his report to the Palestine Government on the possibility of introducing a system of agricultural co-operation in Palestine. The last, but by no means the least important, report which I have to mention is that of the Commission appointed by His Majesty's Government, with the approval of the Council of the League of Nations, to determine the rights and claims of Moslems and Jews in connection with the Western or Wailing Wall. This report, as the Commission will be aware, has recently been published.

After full consideration of the material at its disposal, and, in particular, the reports which had by then been made available, His Majesty's Government issued in October of last year a statement of policy, as had been foreshadowed in my statement to the Commission last year (Cmd. 3692). Considerable controversy arose over this document, and it was evident to His Majesty's Government that its intentions had been seriously misunderstood and misinterpreted in some quarters. His Majesty's Government took such steps as were possible to remove the

atmosphere of mistrust and misapprehension with which its statements had been received in Jewish circles. On November 17th, 1930, a debate upon the subject of the White Paper took place in the House of Commons, and shortly afterwards arrangements were made for conversations between Jewish leaders and representatives of His Majesty's Government. These conversations, which were conducted in a spirit of goodwill on both sides, resulted in the Prime Minister's letter of February 13th, 1931, to Dr. Weizmann, which sought to remove certain misconceptions and misunderstandings that had arisen as to the policy of His Majesty's Government as set forth in the White Paper of October 1930, and which, in the words of the Prime Minister, " will fall to be read as the authoritative interpretation of the White Paper on the matters with which this letter deals ".

On receipt of the letter, Dr. Weizmann issued a statement, of which a copy accompanied his letter to the High Commissioner of April 30th, last, transmitting a memorandum on the Jewish National Home in Palestine during 1930.[1] These documents are before the Commission. As will be seen from a perusal of Dr. Weizmann's statement, the issue of the Prime Minister's letter has gone a long way to achieve its object.

I do not think, in view of the manner in which the Prime Minister's letter has been received by Dr. Weizmann, that I need make any further comments upon the controversy which preceded it.

The Prime Minister's letter to Dr. Weizmann has not, however, been well received by the Arabs, who consider that it has modified, adversely to their interests, the White Paper. This we do not admit, but it is an illustration of the difficult task of Government in Palestine that it appears to be impossible (with the present racial outlook) to give some measure of satisfaction to one section without creating a consequent and equal dissatisfaction in the other.

In dwelling as I have done in some detail upon various reports, investigations and discussions which have taken place since I last appeared before the Mandates Commission, I should be very sorry if I conveyed the impression that His Majesty's Government and the Palestine Administration had nothing in the way of practical achievement to which it could point during that period. I merely wished to emphasise the fact that His Majesty's Government has been endeavouring to obtain the best and fullest possible information with regard to the various problems in Palestine with which it is faced, so that wise and appropriate action may be taken.

I think, however, that it will be clear from the report of my Government to the Council of the League on the administration of Palestine and Transjordan for the year 1930 that, despite certain adverse circumstances, definite progress has been made in various directions. In the words of the report, " Nothing testifies more highly to the country's powers of financial endurance and recuperation than the fact that the revenue from Customs in 1930 approached one million pounds. This result is all the more remarkable in a year of reduced Jewish contributions and capital investments. Were it not for the burden of defence, the finances of the country, in the world circumstances of the last two years, might be considered satisfactory ".

Important public works have been undertaken during the year which have enabled the Government to afford employment to a substantial number of workers. Considerable progress has been made with the harbour works at Haifa, and an important achievement has been the completion of the Government Kadoorie Agricultural School at Tukkarem, which was opened to pupils on January 1st, 1931.

An outstanding event of the year was the opening of the bulk oil installation of the Shell Company at Haifa. It should also be mentioned that Conventions have been signed between the Palestine and Transjordan Governments and the Iraq Petroleum Company with a view to the construction of a pipe-line from the Iraq oilfields to the Bay of Acre; this being one of the two pipe-lines which, in its new Agreement with the Government of Iraq, the company has undertaken to construct by the end of 1935.

While the condition of commerce and industry during the year may be regarded with some satisfaction, agriculture has, as might be expected, suffered from the worldwide depression. It has also suffered from the additional misfortune of a bad winter crop due to unfavourable climatic conditions, a plague of field-mice and an invasion of locusts for the third year in succession. The peril of the locust invasion was successfully dealt with by the skill and energy of the Administration. Various measures have also been taken to relieve the plight of the cultivator, including the remission of one-half of the commuted tithes on the winter crops, and the distribution of £35,000 to farmers in short-term agricultural loans.

It has subsequently been deemed necessary, in view of the continued depression in agriculture and the unsatisfactory financial position of agriculturists, to make further large remissions of tithe for 1930 and for the present year.

I may end this short review of events by referring to the construction of the Jordan hydro-electric power station, which, as has been noted in the memorandum submitted by the Jewish Agency, was almost completed at the end of the year, and, but for delay owing to the severe floods in the spring of 1931, would probably have by now been providing current for industry over a large area of Palestine.

---

[1] Document C.P.M.1178.

The instances which I have just given of activity in various branches of work in Palestine leave out of account what is perhaps the most important practical problem at the present time in regard to that territory—namely, the question of land development and land settlement. It may, I think, be regarded as common ground that a comprehensive scheme of development is called for in the interests of both the Arab and the Jewish communities and in fulfilment of the responsibilities which His Majesty's Government have for the general welfare of Palestine.

In framing a scheme which will meet these requirements, His Majesty's Government have made every effort to ascertain the views and to consult the interests of both parties. This has not been easy, and it has involved much expenditure of time; but it is hoped that, in the near future, it will be possible to announce the general outlines of the scheme.

Subject to the necessary provisions for control, consultation and advice, the administration of the scheme will be placed in the hands of an officer to be appointed under the title of Director of Development, and his appointment will be the first step. His Majesty's Government are now taking active steps to secure the services of a suitable officer for this very important task. In order to finance the scheme, His Majesty's Government propose that a loan of £2,500,000 should be raised, which Parliament will be asked to authorise His Majesty's Government to guarantee. As the Commission may be aware, I have already made an announcement in Parliament to this effect. I feel confident that the scheme, when fully worked out, will make a very marked difference for the better in the economic condition of the country and will thus prove of great advantage to the whole population, Jew and Arab alike.

As regards the method by which the policy of development should be carried out and the detailed programme of work to be undertaken, I should like to make it clear that His Majesty's Government have no intention of governing their procedure by any assumptions based on existing estimates of facts and figures. The whole problem will be carefully investigated on the spot by the development authority, whose recommendations will be framed in the light of the facts so ascertained. I emphasise this point since some of the facts and conclusions contained in Sir John Hope Simpson's report have, as the Commission will be aware, been challenged in Jewish quarters. It will, however, be clear from what I have just indicated that the development authority will not start by assuming the correctness of any set of statistics in relation to their problem, but will verify on the spot the facts necessary to be ascertained before proceeding to draw up or to execute any part of the scheme of development.

In conclusion, I should like to remark that it may be said that the difficulties of the political issue have, to some extent, tended to delay economic development. It may be said, on the other hand, that happier political conditions, if efforts to attain them are successful, as I hope they will be, should react favourably upon material progress. The situation, however, does call for action in the economic field, and it is the intention of His Majesty's Government, while taking into due consideration political facts and requirements, to concentrate upon economic improvement—in particular, through the agency of the development scheme—in the hope that thereby greater prosperity and a better understanding between the two races may gradually be established in Palestine.

The CHAIRMAN thanked the accredited representative for his statement and enquired whether the members of the Commission had any questions of a general nature to ask, before dealing with the report in detail.

MEASURES TAKEN BY THE ADMINISTRATION TO AVOID DISTURBANCES.

M. ORTS had noted that, contrary to what had happened in previous years, there had been no disturbances at Easter and that Dr. Drummond Shiels attributed that fact to the measures taken by the authorities. He would be interested to know what those measures were.

Dr. Drummond SHIELS asked Mr. Young to reply.

Mr. YOUNG referred to the strengthening of the police force and also to the fact that two British infantry battalions were now stationed in Palestine. Those two facts had made the Palestine Government feel more secure. As Dr. Drummond Shiels had said, there had been no serious difficulties at what might have been a very difficult time.

M. ORTS, while not wishing to go back over past events, noted that it was largely the presence of British troops that had prevented disturbances at Easter. He recalled that the Commission had expressed the view that the disturbances of 1929 could have been prevented, or at any rate that they would not have been so serious, if there had been more troops in the territory; at that time this argument had been contested.

Dr. Drummond SHIELS understood M. Orts to have said that the mandatory Power had disputed the view that a larger military force would have prevented or would, at least, have minimised the disturbances. He did not think that was quite an accurate statement. His recollection was that the Mandatory had agreed that this was so, but had claimed that the authorities were justified, by the improvement in the position in Palestine during the previous years, in reducing the forces to the extent that they had done. The Mandatory had further pointed out that the position of the forces in Palestine had, among other matters, been before the Mandates Commission every year. He did not think that the Mandatory had ever seriously disputed the point that the presence of larger forces would have helped the situation.

M. ORTS remembered that, when the Commission had expressed the opinion that the presence of larger forces would have had a decisive and beneficial effect, the accredited representative of

the mandatory Power had observed that, in 1920 and 1921, the presence of a large British garrison had not prevented the massacres.

Dr. Drummond SHIELS agreed, and said that he himself had put forward that very point. What he had said, however, was that no number of troops, however large, could be regarded as an absolute means of preventing trouble. He thought that M. Orts and himself were probably more in agreement than appeared from the passage of words.

QUESTION OF THE COMMUNICATION TO THE COMMISSION OF MR. STRICKLAND'S REPORT ON AGRICULTURAL CO-OPERATION.

M. ORTS referred to the Strickland report on agricultural co-operation. That report had not been communicated by the mandatory Government to the Secretariat, which had procured it through another channel. He enquired whether the Commission was to regard the report as having been communicated officially.

Dr. Drummond SHIELS said he understood that the report had been communicated to the Mandates Commission. In any case, the accredited representatives had come to Geneva prepared to discuss it. He was sorry if there had been any error in the matter.

The CHAIRMAN welcomed the accredited representative's statement, but explained that the Commission had not yet received the report officially.

Dr. Drummond SHIELS suggested that the report might have been sent to the Secretariat, as instructions had certainly been given for it to be communicated.

M. CATASTINI explained that the Secretariat had not received from the mandatory Power copies of the Strickland report. When, however, it had learnt that the report had been published, it had obtained copies, which it had distributed to the members of the Commission.

Dr. Drummond SHIELS expressed his regret, and suggested that Mr. Young would be very glad to give an idea of the report, if the Commission so desired.

The CHAIRMAN explained that the members of the Commission were already in possession of copies of the report. He had merely wished to settle a point of order, and enquired whether the Commission could take the Strickland report as having been communicated, with a view to discussion.

Dr. Drummond SHIELS replied in the affirmative.

QUESTION OF THE PUBLICATION OF THE REPORT BY SIR H. DOWBIGGIN ON THE RE-ORGANISATION OF THE POLICE FORCE.

M. RUPPEL noted the reference in the accredited representative's statement to a report by Sir H. Dowbiggin on the re-organisation of the police force. He asked whether copies of this report would be communicated to the Permanent Mandates Commission.

Dr. Drummond SHIELS replied that Sir H. Dowbiggin's report had not been published. It was a very confidential document which it was considered hardly possible to publish.

LAND SETTLEMENT AND DEVELOPMENT.

M. ORTS understood, as regards the question of land, which was fundamental, that a final policy had not yet been adopted by the mandatory Power, which was looking for a qualified official to study the question more closely. Could the Commission conclude that the Hope Simpson report was not the last word, and that the final land policy would not necessarily be based on it ?

Dr. Drummond SHIELS said that that view was perfectly correct. What the mandatory Power had done in the meantime was to take measures to safeguard tenants from eviction. As regards the larger question of the development scheme, the Government was trying to obtain the services of someone with the desirable knowledge and ability to deal with what was generally agreed to be a most difficult subject.

M. VAN REES had listened with the greatest interest to the accredited representative's general statement, particularly the latter part, and had heard with great satisfaction that the general plan of economic development was not to be based on the statistics at present available but on the results of further investigations. He congratulated the mandatory Power on that decision. He understood that the development scheme must, to a certain extent, be inspired, not only by economic, but also by political considerations, and esked if that point might be explained more fully.

Dr. Drummond SHIELS said that he was not aware of having made such a statement. The Government was hoping, on the contrary, to escape political difficulties and to proceed on economic lines.

He added that he had hoped to be in a position to give at this meeting full particulars of the development scheme, but was not yet able to do so.

The first object of the scheme was the resettlement of Arabs who had been dispossessed owing to the fact that their lands had passed into Jewish hands.

The other objects were to increase the absorptive capacity of the country by general improvements, such as more intensive cultivation, irrigation, drainage, and possibly by other means, such as agricultural research. The idea was to provide, in the first place, for the class of landless Arabs described and then to investigate the other questions, after which a final decision on the policy would be taken.

M. Van Rees was surprised that the principal object was to re-establish the Arabs who had been expelled owing to the sale of land to the Jews, and that everything else was considered as secondary. Nevertheless, as regards this primary object, which could not be realised without very detailed and exact information, M. Van Rees wondered how this part of the plan could be put into operation without knowledge, not only of the number of Arabs to be re-established on the land, but also under what conditions they had left, voluntarily or otherwise, the lands they had occupied. The accredited representative would remember that last year M. Van Rees had asked him to transmit to Sir John Hope Simpson certain questions he had asked. No reply had been received to those questions.

Dr. Drummond Shiels replied that the request had been conveyed to Sir John Hope Simpson, who had, however, been unable to give the information. It would be the first duty of the Development Commission to find out and register the number of this particular class of landless Arabs and then to initiate the procedure of resettlement.

M. Rappard noted the reference in the accredited representative's statement to a report by a commission, appointed by the High Commissioner, on agricultural and fiscal measures. On page 13, paragraph 29, of the annual report it was stated that Sir E. Dowson had paid a return visit to Palestine in 1930 and had presented a report on the progress made in land settlement and urban taxation. M. Rappard asked if these two reports were identical and if they were confidential.

Mr. Young replied that the two reports were quite distinct.

The former report had been presented by a Committee consisting of the Deputy Treasurer and an Assistant District Commissioner and had been published. Copies had been sent to the League on February 24th, 1931, at the request, he understood, of the League library.

The second report related to the progress of land settlement and the prospect of the introduction of a general land tax in place of the existing agricultural taxes. It had not been published, but there was no objection to its being placed at the disposal of the Permanent Mandates Commission, if the members so desired.

M. Catastini said that, as in the case of the Strickland report, the first of the two reports to which Mr. Young had referred had been distributed to the Commission by the Secretariat on its own initiative.

Count de Penha Garcia did not quite understand why the term " dispossessed " was used in respect of the Arabs. He thought that the Jews had bought the land and that the Arabs had sold it. This was a normal transaction. The Arabs in question had sold their land and in many cases, the farmers who had occupied them had even received indemnities, so that it was incorrect to say that they had been evicted or dispossessed. In these circumstances, why should they be given land as reparation ? Such a method of visualising the problem was not calculated to improve the relations between the two races.

Was it a question of improving the position, by means of an agrarian reform, of the former farmers who had been evicted from the land bought by the Jews ? This would be too narrow a problem. In reality, the point involved was that of the situation of the Arab peasants, which was only partly due to the Jewish immigration. The difficulty of the problem arose from the quantity of cultivable land which was available for distribution. It would be necessary to ascertain whether it was possible to bring fresh land under cultivation, seeing that those available were insufficient. When this investigation had been made and the preparatory work completed it could be seen whether the Government had enough to distribute to everybody. On this capital point would depend the extent of the agrarian reform and its effect on the solution of the Palestine problem.

Dr. Drummond Shiels replied that it was true that some, at least, of the dispossessed Arabs had received cash compensation for leaving the land. It had, however, been agreed generally, and this applied to the Jewish authorities, that, when Arab peasants had been displaced as a result of Jewish colonisation and no other land or occupation had been found for them, other land should be given them. With regard to Arabs who had never been in possession of land, it would depend on the later working out of the development plan whether or how land would be available for them when more cultivable land was created.

He pointed out that the dispossessed Arabs were in most cases not owners but tenants who had been turned out when the land changed hands.

M. Van Rees expressed satisfaction at the replies which the accredited representative had just given. He was glad to hear that further enquiries would be made which would not merely fix the number of tenants evicted as a result of the Jewish colonisation. He asked whether the Administration's attention was confined to Arabs who had been evicted as a result of the sale of land to the Jews, or whether it was also directed to the Arab occupants who had been evicted as a result of land transactions concluded between Arabs. In this connection, M. Van Rees recalled the letter, dated May 11th, 1931, from the British Government to the League of Nations

enclosing the observations of the Government on the memorandum from the Arab Executive Committee dated December 6th, 1930. [1] In these observations it was said, among other things (page 10):

> " It should be borne in mind that the Arab landlords themselve have, in some cases, evicted agricultural tenants . . . "

Dr. Drummond SHIELS thought the passage in question referred to evictions from land which was about to be transferred to Jewish owners. He pointed out that the only pledge given by the British Government was to give land to persons dispossessed of it as a result of Jewish colonisation.

M. SAKENOBE asked what would be the position of Jewish immigrant farmers during the period when the development scheme was being elaborated.

Dr. Drummond SHIELS replied that the Jewish Agency had considerable reserves of land which would not be fully utilised by the time the development scheme was fully set up.

POLITICAL SITUATION.

The CHAIRMAN noted that, when making his statement, Dr. Drummond Shiels had omitted to give the Commission his views on general political conditions. He did not know whether this omission was intentional or not. He had hoped that Dr. Drummond Shiels, after visiting Palestine, would have informed the Commission of the impressions he had received as a result of the conversations he had had with the different sections of the population.

The Chairman recalled that, in October 1930, the White Paper published by the British Government had caused a considerable sensation both among the Arabs and the Jews in Palestine. Almost at the same time the British Government had published the report of Sir John Hope Simpson, followed in February 1931 by the publication of the letter from the British Prime Minister to Dr. Weizmann, the tone of which had not failed to arouse emotion amongst the Arabs. It was sufficient to compare these various documents to realise how uncertain was the policy of the mandatory Power in connection with the Palestine problem. The Chairman asked Dr. Drummond Shiels if he could reassure the Commission on this point, by telling it that the British Government had at last adopted a definitive policy, and, if possible, what that policy was.

Dr. Drummond SHIELS replied that he would be very glad to give the personal impressions which he had gained from his visit to Palestine. He would prefer to do so later in the session, after he had had time to prepare his statement.

FORM OF THE ANNUAL REPORT.

The CHAIRMAN pointed out that, at the extraordinary session held in the previous year, some suggestions had been made as to the form of the annual report, with a view to the more rational arrangement of the subject matter. He thanked the mandatory Power for having complied with the Commission's wish, and noted that the annual report for 1930 showed a considerable effort to satisfy the Commission's wishes. The various subjects were very fully treated and, in general, detailed replies had been given to the questions asked by the Commission in the previous year.

He also thanked the mandatory Power for having supplied the members of the Commission with copies of a map with a view to facilitating the examination of the annual report.

COMPARISON OF THE WHITE PAPER OF OCTOBER 1930 (CMD. 3692) WITH THE LETTER FROM THE BRITISH PRIME MINISTER TO DR. WEIZMANN, DATED FEBRUARY 13TH, 1931.

M. VAN REES noted that, on pages 25 to 27 of the report, the second chapter of the White Paper (pages 12 to 15), dealing with " Constitutional Development ", had been reproduced in full. He regretted that this was the only part of this document that the mandatory Power had considered it necessary to reproduce in the report, seeing that the third chapter of the White Paper (pages 15 to 23), dealing with " Economic and Social Development " and explaining the constructive policy which the British Government proposed to follow in these matters, was undoubtedly of greater importance, in present circumstances, than the second chapter.

As regards the views of the British Government on economic and social development, the report merely referred the reader (pages 19, 28, 35, 41 and 50) to the White Paper and to the explanatory letter sent by the Prime Minister to Dr. Weizmann, dated February 13th, 1931, and did not explain any of the essential points. M. Van Rees considered that it would have been a good thing if the report had at least developed these essential points, referring at the same time to the relevant passages in the White Paper. He asked if there was some special reason why the report contained only a part on the White Paper and passed over in silence the other part, which was quite as interesting to all those who were dealing with affairs in Palestine.

---

[1] Document C.P.M.1169.

Dr. Drummond SHIELS replied that, in the case mentioned, it was probable that only one part of the White Paper had been reproduced in the report because the authors considered it to be relevant to the question asked. He did not know of any other reason.

M. VAN REES observed that this partial reproduction was the more regrettable, in that it prevented the reader of the annual report from ascertaining what were the guiding principles of the policy adopted by the Mandatory in economic and social matters. Further, the reference to two documents giving this information, neither of which was complete, necessitated a careful comparison of each of these documents with the other. This was somewhat difficult work in view of the fact that the letter to Dr. Weizmann was in reality something more than a simple interpretation of the White Paper, since it restricted and, in consequence, modified certain statements made in the other document; and indeed, as regards certain other points, went so far as flatly to contradict the White Paper. M. Van Rees had felt it his duty to give his reasons for this point of view by stating in writing the principal divergencies between the two documents; he was ready to read the statement in question if his colleagues so desired.

The CHAIRMAN asked M. Van Rees to postpone reading the document until the next meeting.

TENTH MEETING.

Held on Monday, June 15th, 1931, at 4 p.m.

Palestine: Examination of the Annual Report for 1930 (continuation).

Dr. Drummond Shiels, Mr. M. A. Young, Mr. R. V. Vernon and Mr. O. G. R. Williams came to the table of the Commission.

COMPARISON OF THE WHITE PAPER OF OCTOBER 1930 (CMD. 3692) WITH THE LETTER FROM THE BRITISH PRIME MINISTER TO DR. WEIZMANN, DATED FEBRUARY 13TH, 1931 *(continuation)*.

M. VAN REES wished, before giving effect to the request formulated by the Chairman at the end of the previous meeting, to make the following declaration:

He did not desire in any way to bring into the discussion the contents of the White Paper or of the letter from the British Prime Minister. M. Van Rees considered that, in his capacity of member of the Mandates Commission, he was not called upon to express a judgment on the policy explained by the British Government in these two documents, unless the documents in question, taken as a whole, proclaimed a line of conduct which was incompatible with the mandate—which was not the case. If, therefore, during later discussions, M. Van Rees found himself obliged to make certain observations regarding the attitude of the mandatory Power concerning the *practical application* of certain provisions of the mandate, those observations would only relate to the methods of application of those provisions and not to the general policy outlined in the two documents in question.

As he had observed, the letter from the British Prime Minister to Dr. Weizmann, which was presented as an interpretation of the White Paper, served, in reality, to define a certain number of statements appearing in the White Paper which had been more or less contested. M. Van Rees congratulated the British Government on having succeeded in explaining and completing these contested declarations in such a way as to bring them more closely into harmony with the real sense of the provisions of the mandate.

Passing to his statement of the points in question, which were of particular interest to the Commission, M. Van Rees desired to say that he did not wish in any way to provoke a discussion on them, but only to show that the letter to Dr. Weizmann contained more than a mere interpretation of the White Paper. He would give parallel passages from the two documents from which anyone could draw his own conclusions. This did not call for any reply from the accredited representative.

Dr. Drummond SHIELS said he would listen with interest to M. Van Rees' arguments, provided always that it was understood that the fact of his not replying did not necessarily imply his acceptance of all M. Van Rees' views.

I. *Jewish People.*

M. VAN REES said that in paragraph 3 of the Prime Minister's letter he found that " His Majesty's Government... *recognises that the undertaking of the mandate is an undertaking to the Jewish people and not only to the Jewish population of Palestine* ". The White Paper, on the contrary, nowhere gave the impression that any special importance was attached to this essential distinction. Judging, for example, from the last sub-paragraph of paragraph 3 it rather appeared that the British Government had only assumed responsibility as regards the Jews established in Palestine, whereas the preamble to the mandate referred expressly to the *Jewish people* in general.

II. *Interpretation of Articles 2 and 6 of the Mandate.*

The Prime Minister's letter contained in paragraphs 6 and 7 interpretations of the reservations appearing in Articles 2 and 6 of the mandate.

In paragraph 6 it was laid down that the words " safeguarding the civil and religious rights " occurring in Article 2 (of the mandate) cannot be " read as meaning that the civil and religious rights of *individual citizens* are to be unalterable " . " The words, accordingly ", it was said later, " must be read in another sense, and the key to the true purpose and meaning of the sentence is to be found in the concluding words of the article ' irrespective of race and religion '. These words indicate that, in respect of civil and religious rights, the Mandatory *is not to discriminate between persons on the ground of religion or race,* and this protective provision applies equally to Jews, Arabs and all sections of the population ".

Again in paragraph 7 of the Prime Minister's letter it was laid down that The words " rights and position of other sections of the population " occurring in Article 6 (of the mandate) " plainly refer to the non-Jewish community. These rights and position are not to be prejudiced, that is, *are not to be impaired or made worse".* . . *" But the words are not to be read as implying that existing economic conditions in Palestine should be crystallised.* On the contrary, the obligation to facilitate Jewish immigration and to encourage close settlement of Jews on the land, remains a positive obligation of the mandate, and it can be fulfilled without prejudice to the rights and position of other sections of the population of Palestine."

These perfectly justifiable interpretations were little in accord with the spirit of the White Paper, which, in more than one place, gave the impression that the reservations quoted above were rather obstacles in the way of the establishment of the National Home, and therefore obstacles as much to Jewish immigration as to the extension of the Jewish agricultural enterprises.

III. *Lands to be reserved for the Arabs.*

Referring to the State lands, the White Paper contained the following general conclusion; " The Government claims considerable areas which are in fact occupied and cultivated by Arabs. Even were the title of the Government to these areas admitted, and it is in many cases disputed, it would not be possible to make these areas available for Jewish settlement, in view of their actual occupation by Arab cultivators and of the importance of making available additional land on which to place the Arab cultivators who are now landless ".

What could that text mean except that all the available land should be reserved in the first instance for landless Arabs or Arabs without enough land ?

But in paragraph 9, the Prime Minister's letter said something quite different. It explained that " it is desirable to make it clear that the landless Arabs . . . *were such Arabs as can be shown to have been displaced from the lands which they have occupied in consequence of the lands passing into Jewish hands, and who have not obtained other holdings on which they could establish themselves or other equally satisfactory occupation* ". The letter continued: " The number of such displaced Arabs must be a matter for careful enquiry. *It is to landless Arabs* within this category that His Majesty's Government feel themselves under an obligation to facilitate their settlement upon the land. The recognition of this obligation in no way detracts from the larger purposes of development, which His Majesty's Government regards as the most effectual means of furthering the establishment of a National Home for the Jews ".

IV. *Enquiry regarding State Land.*

In paragraph 15 the White Paper said: " It can now be definitely stated that at the present time and with the present methods of Arab cultivation there remains no margin of land available for agricultural settlement by new immigrants, with the exception of such undeveloped land as the various Jewish agencies hold in reserve ".

In the Prime Minister's letter, however, this certainty is quite as definitely abandoned, for in paragraph 10, sub-paragraph 2, it said: " It is the intention of His Majesty's Government to institute an enquiry as soon as possible *to ascertain,* inter alia, *what State and other lands are, or properly can be made, available for close settlement by Jews* under reference to the obligation imposed upon the Mandatory by Article 6 of the mandate ".

V. *Transfer of Land to the Jews.*

According to the White Paper (paragraph 23) only by the methodical application of such a policy (of agricultural development) will additional Jewish agricultural settlement be possible consistently with the conditions laid down in Article 6 of the mandate . . . For this reason— the White Paper went on to say,—it is fortunate that the Jewish organisations are in possession of a large reserve of land not yet settled or developed. Their operations can continue without break, while more general steps of development, in the benefits of which Jews and Arabs can both share, are being worked out. During this period, however, the control of all disposition of land must of necessity rest with the authority in charge of the development. Transfers of land will be permitted only in so far as they do not interfere with the plans of that authority.

It was not surprising that it had been inferred from these principles that, at least during the period of transition, which according to the White Paper was expected to last for an appreciable time, all transfers of land to the Jews would be prohibited.

The letter from the Prime Minister stated that this was not so. It was said in paragraph 13 that " the policy of His Majesty's Government *did not imply a prohibition of acquisition of additional land by Jews. It contains no such prohibition, nor is any such intended.* What it does contemplate is such temporary control of land disposition and transfers as may be necessary not to impair the harmony and effectiveness of the scheme of land settlement to be undertaken ".

VI. *Jewish Immigration.*

Paragraph 27 of the White Paper said: " It may be regarded as clearly established that the preparation of the Labour Schedule must depend upon the ascertainment of the *total* of unemployed in Palestine ", and, later on, (paragraph 28) it is added: " Clearly, if immigration of Jews results in preventing the Arab population from obtaining the work necessary for its maintenance, or if Jewish unemployment unfavourably affects the general labour position, it is the duty of the mandatory Power under the mandate to *reduce*, or, if necessary, to *suspend* such immigration until the unemployed portion of the ' other sections ' is in a position to obtain work ".

What could that mean except that His Majesty's Government reserved the right to prohibit all Jewish immigration as far as that immigration might prevent the Arab population from finding work ?

In paragraph 15, the Prime Minister's letter said: " His Majesty's Government *never proposed to pursue such a policy.* They were concerned to state that, in the regulation of Jewish immigration, the following principles should apply—namely, that ' It is essential to ensure that the immigrants should not be a burden upon the people of Palestine as a whole and that they should not deprive any section of the present population of their employment ' " (White Paper 1922).

Later, in paragraph 16, the Prime Minister's letter added: " His Majesty's Government *did not prescribe and do not contemplate any stoppage or prohibition of Jewish immigration in any of its categories.* The practice of sanctioning a ' Labour Schedule ' of *wage-earning immigrants will continue. In each case consideration will be given to anticipated labour requirements for works which, being dependent on Jewish or mainly Jewish capital, would not be, or would not have been, undertaken unless Jewish labour was made available* ", and later (in paragraph 17): " His Majesty's Government do not in any way challenge the right of the Agency to formulate or approve and endorse such a policy "—that was to say, a policy whereby the obligation to employ Jewish workmen for the works or undertakings executed by the Jewish Agency was to be regarded as a question of principle. The paragraph went on to say: " *The principle of preferential and, indeed, exclusive employment of Jewish labour by Jewish organisations is a principle which the Jewish Agency are entitled to affirm*".

In the White Paper, however (paragraph 20), the right of the Jews to employ, if they preferred to do so, only Jewish labour in their own undertakings was contested as being contrary to the terms of Article 6 of the mandate, and, in particular, incompatible with the provision to the effect that " the rights and position of other sections of the population must not be prejudiced ".

VII. *Public Works.*

The White Paper did not deal expressly with the question of labour for public works, although the letter from the Prime Minister contained the following declaration regarding this subject (paragraph 16): " With regard to public and municipal works falling to be financed out of public funds, *the claim of Jewish labour to a due share of the employment available, taking into account Jewish contributions to public revenue, shall be taken into consideration* ".

Dr. Drummond SHIELS said he had listened with interest to the comparisons which M. Van Rees had made between the White Paper and the Prime Minister's letter.

The policy of His Majesty's Government must be taken as a whole, as formulated, explained and amplified in the Parliamentary Debate, in the White Paper and as interpreted, in regard to certain points, in the Prime Minister's letter.

He reminded the Commission that, as long ago as 1922, the mandatory Power had laid it down that the immigration policy must be based on the absorptive capacity of the country. That was still the position. He would point out that the new development plan should work in the direction of increasing the absorptive capacity of the country.

The CHAIRMAN suggested that in case Dr. Drummond Shiels might have to leave Geneva that night it would be advisable for the members immediately to put to him any questions they might desire to ask him directly. He personally desired once more to ask Dr. Drummond Shiels what his impression was as regards the relations between the two elements of the population in Palestine.

Use in the Territory of Grants-in-Aid from the British Exchequer.

M. Rappard said that in the Mandatory's comments on the report of the Mandates Commission of last year one point had interested him in particular—concerning finance. Replying to the recommendation of the Mandates Commission that greater efforts should be made in the matter of economic development, the Mandatory had made the following statement (Minutes of Seventeenth (Extraordinary) Session, page 152):

> " Having regard to the unpromising local conditions, such a view assumes that practically unlimited funds for this purpose are at the disposal of the Palestine Government. Their resources, on the contrary, are strictly limited.
>
> " It implies, moreover, a fundamental misconception of the general policy of His Majesty's Government with regard to the territories for which they are responsible. It has been their consistent aim, justified by long experience, to emancipate as soon as possible such territories from dependence upon grants-in-aid from the British Exchequer.
>
> " If a territory is to be developed on sound economic lines, it must be, in the opinion of His Majesty's Government, on the basis that it is self-supporting. It is true that until recent years it has been necessary to assist the Government of Palestine by grants from the British Exchequer. In fact, the expense which has fallen on His Majesty's Government in connection with the mandate has not been inconsiderable. Taking only the period since 1921, when the present system of administration (*i.e.*, control by the Secretary of State for the Colonies) was inaugurated, the sums provided by His Majesty's Government have amounted to more than nine million pounds sterling. This expenditure naturally includes the cost of defence of the territory."

He compared this with the statements concerning non-recoverable grants-in-aid on page 147 of the report for 1930, and noted also that there were no loans or advances from His Majesty's Government (page 154). The expenditure incurred on defence from 1922 to 1928 was shown, but figures for the following years were not available, " as no separate record has been kept ".

There appeared to be no expenditure for civilian purposes, and he wished to enquire what part economic development had played in the expenditure, amounting to nine million pounds sterling, since 1921. The reference to that sum appeared to imply that Great Britain had already made great sacrifices for the economic development of Palestine.

Dr. Drummond Shiels regretted that he was not in a position to reply very fully, as he had not the necessary material at hand. He suggested that the explanation might perhaps be largely a matter of book-keeping. For the first years, the whole cost of the garrison had been entered, while in recent years only the excess cost over the cost of the garrison at home had been noted. Should it prove impossible fully to clear up the point by consultation after the meeting, the information would be forwarded either to M. Rappard direct or to the Secretariat of the Commission.

M. Rappard would be very grateful for the communication of such a statement. The Mandates Commission had urged the speeding up of economic development, and the statement that nine million pounds sterling had been spent by the Mandatory had appeared before the world two months later. The dates and circumstances governing the interchange of views between the Commission and the Mandatory made the former seem unreasonable in asking so much—the Mandatory having already spent so large a sum—but the actual sums appeared to have been used almost entirely, if not entirely, for purposes of defence and police.

Dr. Drummond Shiels could not quite accept the view that expenditure on the police or even on defence services was necessarily irrelevant to considerations of development. It might have considerable effect on the possibility of economic development. He hoped to be able to give a satisfactory explanation as soon as he could command the necessary figures.

Legislative Council.

M. Van Rees noted that, according to the passages of the 1930 White Paper reproduced on pages 25 to 27 of the report, His Majesty's Government proposed to repeat the attempt, which had failed in 1923, to establish a Legislative Council on the basis of the White Paper of June 1922—that was to say, in conformity with the provisions of Part 3 of the Palestine Order-in-Council, 1922.

That Council would be composed of the High Commissioner as President and of twenty-two other members, including ten officials appointed under Article 20 of the Order-in-Council and twelve elected non-official members. The composition of this latter portion of the Legislative Council, however, had not been settled by the Order-in-Council. Was there any decision whereby the number of Arab, Christian and Jewish elected members was fixed ?

Dr. Drummond SHIELS regretted that he could not supplement the information given, as there had been no decision on the subject.

M. VAN REES said that, although the Order-in-Council did not say so explicitly, the Legislative Council would no doubt have the right of initiative in all legislative matters, subject to the limitations expressly laid down in Article 18. On the other hand, Article XVI of the Royal Instructions of August 14th, 1922, stipulated that the High Commissioner should not submit to the Legislative Council any ordinance which was contrary to, or appeared not to be reconcilable with, the provisions of the mandate.

How was this instruction to be interpreted ?

Did it imply that, so far as concerned the execution of the mandate, no legislative measure might be considered by the Council unless it had been submitted by the High Commissioner ? Should this hypothesis be correct—which M. Van Rees doubted—the Council would have no right of initiative in any matter affecting the mandate.

If, however, such an hypothesis were incorrect, as he believed, another more serious question arose. Articles 24 to 27 reserved the right of the High Commissioner or of His Majesty to prevent the entry into force of any ordinance approved by the majority of the Council. Such a repressive weapon could only be used in extreme cases—that was to say, very rarely, on pain of provoking undesirable conflicts. There was no real fear of the majority deliberately flouting the explicit provisions of the mandate, of their acting contrary to the very letter of that instrument, since in such a case they would inevitably expose themselves to the application of the High Commissioner's right of veto. In the case, however, of the *interpretation* of certain provisions of the mandate, it would be much more difficult for the High Commissioner to decide whether or not the ordinance approved by the Council scrupulously respected the provisions of the mandate.

A striking example of this difficulty was furnished by the White Paper of October 1930, which clearly attributed to the reservations appearing in Articles 2 and 6 of the mandate a meaning which the British Government had later been obliged to restrict for the reasons stated in paragraphs 6 and 7 of the letter from the British Prime Minister of February 1931.

Hence, in so far as the Council might proceed to legislate on questions relating to the mandate, the number of cases revealing a divergence of views between the majority of the Council and the High Commissioner might prove to be very considerable, a position which would involve consequences ill-calculated to promote that understanding between the different elements of the population which the Government still hoped might one day come to pass.

M. Van Rees considered that that aspect of the proposed legislative organisation called for the most careful attention, in the very interests of the country which the British Government was called upon to administer on the basis of so complex an instrument as the Palestinian mandate, an instrument unique of its kind.

Dr. Drummond SHIELS quoted the paragraph on page 27 of the report to the effect that the High Commissioner would continue to have the necessary power to ensure that the Mandatory should be enabled to carry out its obligations to the League of Nations, including any legislation urgently required, as well as the maintaining of order.

He agreed with M. Van Rees that the veto was a very difficult weapon, which could only be used sparingly, because of its effect on local feeling. As regards the interpretation of the mandate, that had been one of the Mandatory's difficulties: certain parts were open to doubt as regards their interpretation. There would almost certainly be a new Order-in-Council before the Legislative Council was set up, and the points raised by M. Van Rees would certainly be taken into consideration.

ATTITUDE OF THE ARABS TO THE MANDATE.

M. PALACIOS reverted to a general question raised by the Chairman. It would also be interesting to know the accredited representative's impression of the situation in Palestine, both from the political and public standpoint. The Commission had received a petition [1] from the Arab opposition movement, which had held a congress and appeared to be definitely and strongly opposed to the mandate. Was that movement gaining force or was it dying down ? He would be interested also to know what was the position as regards the Jews, and whether the differences between the Revisionists and other parties appeared to be growing less acute.

EFFECT IN PALESTINE OF THE POLITICAL DEVELOPMENT OF IRAQ.

The CHAIRMAN wished to ask a question which touched upon the very nature of the mandate. It was clear that the Moslem element in Palestine was following with the keenest interest the political development of Iraq. The Chairman wondered what, when the time arrived, would be the effect in Palestine of the declaration of independence of Iraq. The Arabs in Palestine, who were always complaining about the special character of the Palestine mandate, would not fail to consider that they had been treated less well. The Chairman asked the accredited representative if he could give his views on the subject.

---

[1] Document C.P.M.1169.

Local Administration.

Count de Penha Garcia observed that the mandatory Power had already made several attempts to introduce local administration, in the form of local elective councils or similar institutions. So far, no great result appeared to have been achieved and the impression given by the report was not very optimistic. It often seemed difficult to obtain properly elected councils. In the Councils the distrust between the two races was increasing. He would be glad to have the accredited representative's impressions on this point and his opinion as to whether it might perhaps be found necessary to base the local administration on traditional formulæ, especially as regards the Arab villages, at the same time adapting those formulæ to present requirements.

Dr. Drummond Shiels agreed that there had been difficulties, but felt that it was hardly accurate to say that no success had been achieved. He thought that Mr. Young would be better qualified than himself to give information on the subject of local councils and possibly on the further development of the system.

Mr. Young stated that it was hardly the case that the Palestine Government was finding great difficulty at present in allowing the municipalities to have control over their own affairs. For reasons which were mentioned in the report, it had been decided in 1930 not to hold re-elections, so that the membership was the same now as in 1927. It was the intention of the Palestine Government to introduce, as soon as possible, an Ordinance dealing with the subject of local government. This was naturally a very comprehensive measure and it had not yet been submitted to the Advisory Council. It would include the subject of village administration, and a Committee which was now sitting would make recommendations concerning village councils. It was hoped that the complete Bill would come into force within the next few months, and local autonomy would then operate in matters which could safely be left to local discretion. It was definitely not the case that the Palestine Government was experiencing great difficulties in the matter. The Government was, on the contrary, looking forward to the extension of the institutions to which he had referred.

Count de Penha Garcia observed that it had been necessary, for various reasons, to dissolve certain local councils, while in other cases the Jews had refused to participate in the elections or the elections had been postponed in order that the situation might not become strained. The report did not convey the impression that any electoral system would function very satisfactorily at present.

Dr. Drummond Shiels thought that the point just raised was largely a reflection of the existing racial relations. In this, as in many other matters, the fundamental question was the improvement of those relations and democratic progress must depend on that improvement.

Relations between the High Commissioner and the Palestine Administration.

The Chairman noted that the Commission had tried in vain to get a clear view of the state of the relations existing between the High Commissioner and the Palestine Administration. The mandate mentioned, for example, local autonomy and a Legislative Council. He would like at least to know whether the Mandatory had yet evolved a plan whereby the territory would attain this administrative autonomy. He had the impression that the policy of the Mandatory was very unstable and that it would lead to very regrettable uncertainty.

Dr. Drummond Shiels thought that the Chairman was tempting him into what Parliamentarians described as " hypothetical regions ". There might, it was true, come a time when the actual Administration would cease to represent the mandatory Power to any great extent. Any consequent modification of the mandatory system must rest with the Council of the League, since no other body possessed the power to amend the mandate.

The Chairman felt it necessary to explain the difficulty that the Mandates Commission had always experienced in correcting the impression of uncertainty, of fluctuation which had appeared to characterise the policy of the mandatory Power. In this connection, he thought it useful to quote the following passage from the work of M. Van Rees, who was an authority on these matters:

> " In this mandate specific powers and duties are accorded to or made incumbent on either the ' Mandatory ' exclusively (Articles 1, 2, 3, 5, 9, 10, 12, 13, 14, 15 (paragraph 1), 16, 17 (paragraph 3), 18 (paragraph 1), 19, 20, 21, 24, 25, 26) or on the ' Administration of Palestine ' (Articles 4, 6, 7, 11, 15 (paragraph 2), 17 (paragraphs 1 and 2), 18 (paragraph 2), 23). It brings out the distinctive character of the latter, more particularly in Article 13, which provides for arrangements between the Mandatory and the Administration in connection with the Holy Places; in Article 18, which provides that the Administration shall obtain the advice of the Mandatory in fiscal and Customs matters; in Articles 19 and 20, which provide that the Mandatory shall adhere to international Conventions ' on behalf of the Administration of Palestine ' and shall co-operate, on its behalf, in the execution of matters of common policy; lastly, in Article 28, which speaks of financial obligations ' incurred by the Administration of Palestine ', and which, moreover, foreshadowing the termination of the mandate, transforms the ' Administration ' into the ' Government of Palestine '.

" It appears evident, therefore, that the authors of the mandate, when reserving to the Mandatory, in Article 1, full powers of administration and of legislation, intended that this should be only a transitional precautionary measure, necessitated by the establishment of the Jewish National Home, and that, in consequence, the actual administration of the country should pass, at a more or less distant date, to the local quasi-autonomous body provided for, which should eventually become the ' Government ' of the territory." [1]

He would be glad to have the accredited representative's views on the matter.

Dr. Drummond SHIELS said that he quite understood the situation. As far back as 1922 the Government had envisaged a time when the elected representatives would have considerable power. This was shown by reference to the statement of British policy in Palestine, issued in June 1922, from which he desired to quote the following passage:

" The Secretary of State is of opinion that, before a further measure of self-government is extended to Palestine and the Assembly placed in control over the Executive, it would be wise to allow some time to elapse. During this period the institutions of the country will have become well established; its financial credit will be based on firm foundations, and the Palestinian officials will have been enabled to gain experience of sound methods of government. After a few years the situation will be again reviewed, and if the experience of the working of the Constitution now to be established so warranted, a larger share of authority would then be extended to the elected representatives of the people." [2]

He could not say exactly what would be the relation then between the High Commissioner and the Administration. The matter would, no doubt, be determined by the experience and wisdom of the mandatory Power, with the help of the Mandates Commission.

The CHAIRMAN pointed out that the Mandates Commission, as much as the mandatory Power, must abide by the terms of the mandate. The Commission wished to know whether there was any hope of the difficulties hitherto encountered decreasing in the future.

Dr. Drummond SHIELS observed that the mandatory Power was only one factor in the situation. He felt that once the relations between the two peoples were improved, further progress could be made in Palestine.

The CHAIRMAN noted that Dr. Drummond Shiels would be prepared to make a statement in reply to the various questions put to him.

ELEVENTH MEETING.

Held on Tuesday, June 16th, 1931, at 10.30 a.m.

Palestine: Examination of the Annual Report for 1930 (continuation).

Dr. Drummond Shiels, Mr. M. A. Young, Mr. R. V. Vernon and Mr. O. G. R. Williams came to the table of the Commission.

At the beginning of the meeting, Dr. Drummond SHIELS, in response to a request froms everal members of the Commission, made a personal statement of his impressions formed during his visit to Palestine and of his appreciation of the general outlook. In the course of his statement he replied to various questions with which he had been asked to deal.

The CHAIRMAN thanked Dr. Drummond Shiels for his statement.

ATTITUDE OF THE ORTHODOX JEWS TO THE ELECTIONS OF THE ELECTED ASSEMBLY OF THE JEWISH COMMUNITY

The CHAIRMAN noted, on page 23 of the report, an account of the elections for the Elected Assembly of the Jewish Community, which took place on January 5th, 1931. The report stated that the *Central Agudath Israel*, organ of the dissentients, appealed to orthodox Jews to boycott the elections, but that there was little response to this appeal. He asked whether this statement

---

[1] VAN REES, *Les Mandats Internationaux*, 1928, page 101.
[2] Report of the Commission on the Palestine Disturbances of August 1929, page 198 (Cmd. 3530).

could be taken to mean that the orthodox section of the Jewish population had abandoned the attitude of resistance which it had adopted when the Jewish Community Regulations were passed in 1927.

Mr. YOUNG replied that the fact that the appeal had been made indicated that this opposition had not been abandoned. It was, however, a hopeful sign that there was little response to the appeal. It would appear that there was less opposition than there had been previously.

The CHAIRMAN referred to a remark made in the previous year that there were 30,000 to 40,000 orthodox Jews, representing about one-quarter of the Jewish population, and that they reproached the other Jews with not strictly observing Jewish religious rights. He therefore supposed that the opposition still continued.

Mr. YOUNG said he was unable to confirm these figures. He thought the proportion was rather high and asked for the source of the figures.

The CHAIRMAN replied that they were based on the number of orthodox Jews in Palestine before the mandate.

JEWISH AGENCY.

M. VAN REES desired, in the first place, to state that nothing which he proposed to say regarding certain clauses of the mandate should be interpreted as affecting the principles at the basis of the policy adopted by the British Government as described in the White Paper and in the letter sent to Dr. Weizmann by the Prime Minister.

Nevertheless, while recognising the legitimacy and importance of those principles, M. Van Rees considered that their application in the territory under mandate was of still more real interest to the Mandates Commission. In order that this application should be scrupulously in accord with the principles adopted, it was essential, in the first place, that no doubt should exist as to the real meaning and scope of the provisions of the mandate which, up to the present, had given rise to different interpretations. The significance of the reservations occurring in Articles 2 and 6 of the mandate had been established once for all by the letter from the Prime Minister, and this was a matter for satisfaction. On the other hand, Articles 4, 7 and 11, to which reference was made in the White Paper, had not yet been clearly defined. For the moment, M. Van Rees would merely submit certain observations on Article 4, which dealt with the part played by the Jewish Agency as an advisory body.

In this connection, a discussion had taken place during the fifteenth session of the Mandates Commission (see pages 85 and 86 of the Minutes of that session). From this discussion, it appeared that it was at least very doubtful whether the Agency had been able, in its capacity of official advisory body, to play a part approaching that which, without any doubt, it had been intended to play by the authors of Article 4 of the mandate. This impression was corroborated by the information given on page 31 of the annual report, in which reference was made to three cases, of which two were fairly recent, in which the Agency had been consulted by the Administration. Apart from these, it was left to the Agency to take the initiative in giving such advice.

It would be difficult, after carefully analysing the terms of Article 4 and comparing it with the guiding principle expressed in the preamble to the mandate, not to admit that, in the beginning, a very much more active rôle was given to the Agency in its capacity of advisory body. Apparently the British Government have taken this into account.

In paragraph 6 of the White Paper of 1930, it gave its opinion on this matter in the following terms:

> " In particular, it is recognised as of the greatest importance that the efforts of the High Commissioner towards some closer and more harmonious form of co-operation and means of consultation between the Palestine Administration and the Jewish Agency should be further developed, always consistently, however, with the principle, which must be regarded as basic, that the special position of the Agency, in affording advice and co-operation, does not entitle the Agency, as such, to share in the government of the country."

The reservation contained at the end of this sentence was quite legitimate. Moreover, the Zionist Executive had never expressed a contrary view. This was proved by the White Paper of 1922 and confirmed by the White Paper of 1930, where it was said in paragraph 5 (*c*):

> " It is also necessary to point out that . . . the Palestine Zionist Executive has not desired to possess and does not possess any share in the general administration of the country."

In conclusion, he asked whether some reform in the sense indicated in the passage he had just quoted was contemplated. If so, what was the nature of that reform ?

Dr. Drummond SHIELS replied that the Palestine Government was always anxious to maintain friendly relations with the Jewish Agency. On all important questions that Agency had an opportunity of giving its views. He recognised the importance of M. Van Rees' statement and would keep it in mind.

M. VAN REES wished to say that his object had not been to criticise the action taken by the Administration in the past. He would merely like to know what had been the effect of the passage in the White Paper to which he had referred, or whether it would have any effect.

Mr. YOUNG replied that, since the White Paper had been published, there had been no alteration in the form or extent of the co-operation with the Jewish Agency. The Government was in fairly constant consultation with that Agency and he had himself consulted it on various matters.

IMMIGRATION AND EMIGRATION: UNEMPLOYMENT.

M. RAPPARD referred to the measures taken to facilitate Jewish immigration and noted that revised instructions had been issued (see page 35 of the annual report). He asked whether those instructions had been published.

Mr. YOUNG replied that the instructions were issued to the departments concerned and were not for publication. If M. Rappard desired a copy, he could arrange to send him one.

M. RAPPARD said that, as regards the general immigration policy, everyone would agree that account must be taken of the absorptive capacity of the country. If the inflow of immigrants became excessive, the Jews would be the first to suffer. Unemployment statistics wore, naturally, of great importance in determining the absorptive capacity. M. Rappard, therefore, warmly welcomed the table of unemployment in 1930, contained on page 46 of the report. Unfortunately, a footnote was added to the effect that, until better means of determining the extent of unemployment were available, " these figures should be accepted with reserve ". He hoped that it might be found possible to prepare the statistics in such a manner that they could be accepted without reserve.

He quoted the following passage from page 38 of the report:

> " It is estimated that there were about 600 unemployed Jewish labourers in the Jewish agricultural centres in June, about 750 in November, on the eve of the orange-picking season, and about 850 in December, when the seasonal work in the groves had begun."

He did not understand why unemployment should have increased as the demand for labourers increased.

Dr. Drummond SHIELS agreed as to the importance of exact statistics to assist in ascertaining the economic position of the country. With the imperfect machinery available, however, it was not yet possible to obtain entirely accurate statistics. Accurate unemployment statistics were always difficult to obtain, even in well-developed countries. It was particularly difficult to obtain exact statistics regarding unemployment among some classes of Arabs, whose mode of life was irregular.

Mr. YOUNG replied to M. Rappard's question regarding the increase in unemployment at a time when more labourers were required. The explanation was contained in the last sentence of paragraph 18, which stated that the Jewish farm workers constituted a floating population, and, if work failed in the colonies, they re-entered the towns. During the picking season, more labourers than could be absorbed moved from the towns to the colonies. The result was a temporary increase in the unemployed in the colonies.

M. RAPPARD wondered whether this did not prove that the method of computing unemployment was unsatisfactory, as these persons were shown as having become unemployed, whereas, in reality, they would seem to have been unemployed previously. Would not unimpeachable unemployment figures, apart from their technical advantage for the administration of the immigration policy, present an additional political advantage ? Would this not deprive the Jewish and Arab populations of dangerous opportunities of bringing pressure on the Government ? If there were much unemployment, the Jews would not insist on more immigration, and, if there were little or none, the Arabs would lose at least one reason for opposing immigration. As long as the figures were uncertain a premium was placed on agitation.

Mr. YOUNG, while agreeing fully with M. Rappard as to the importance of obtaining exact statistics, could not accept the statement that the number of immigrants was influenced by pressure from agitators.

He hoped M. Rappard would appreciate the difficulty of obtaining exact statistics. The Administration was doing everything it could to improve the position in this respect.

M. RAPPARD noted the statement on page 36 of the report that over a thousand immigrants, including 493 Christians, etc., had entered without permission and were allowed to remain. He asked how it was possible for this large number to enter without permission.

Mr. YOUNG said he could not give an exact explanation, but suggested that the 493 Christians had not entered the country in 1930 but had been registered in that year. The process of granting permission to remain in the country was constantly going on and related to persons who had at any time arrived in the country without permission. People might come in as travellers and subsequently remain without permission. There might also be a certain infiltration over the

frontier. It must not be assumed that all the 493 arrived in 1930; but this figure should be taken as representing the activity of the Immigration Department in registering persons who had been previously living illegally in the country.

M. RAPPARD was grateful for this explanation, as, otherwise, it would appear that the persons entering the country illegally were almost as numerous as the legitimate immigrants.

With regard to paragraph 14 on page 37 of the report, he asked why the minimum capital which an immigrant was required to possess had been increased from £P500 to £P1,000. Such an increase would be very drastic even in countries which wished to discourage immigration. It was all the less comprehensible in view of Article 6 of the mandate, which provided that the immigration of Jews should be facilitated.

Mr. YOUNG replied that this increase in the minimum capital only referred to one category of immigrants, and it must not be supposed that this qualification applied to all Jews entering the National Home. He could not give the reason for the change, which had taken place in April 1930, before he arrived in Palestine. It had since been found too high in some cases, and a re-definition was taking place which, while not restoring the old dividing line, would nevertheless make exceptions possible.

M. RAPPARD noted that, in fixing the minimum amount of capital at £P1,000, account was taken of long-term loans. Did this mean that an immigrant could enter the country if he had borrowed £P1,000 ? If this were so, it would apparently defeat the object of the measure, as such an immigrant would have £P1,000 worth of debt and not of capital.

Mr. YOUNG replied that this condition apparently referred to persons who were already in the country but had not been registered. Their stock-in-trade was taken into account and also any loans contracted on a sufficiently long term.

M. RAPPARD thought that, since this was the proper explanation, the paragraph was unfortunately drafted, as it certainly seemed to refer to immigrants on their arrival.

Mr. YOUNG stated that the question of legalising persons staying in the country was very important in view of the large number of such persons. Their presence in the country would probably cause difficulties in connection with the coming census, but steps were being taken to overcome these difficulties.

M. RAPPARD asked what was the present situation with regard to immigration and the present policy of the Administration as regards its regulation.

Mr. YOUNG replied that, in the six months starting from last April, only 500 certificates had been allowed under the Labour Schedule. The Jewish Agency had suggested a somewhat higher figure, but recently the head of the Agency had informed him that it did not now propose to apply for a larger number. The Administration took the view that, if the Jewish Agency could make out a case for a larger number of immigrants, a supplementary schedule might be issued.

M. RAPPARD thanked the accredited representative for the information and also for the valuable immigration statistics contained on pages 41 *et seq.* of the report.

The CHAIRMAN asked how the proportion between Jewish and Christian immigrants was fixed. He noted that, in 1930, nearly 5,000 Jews had been admitted and over 1,000 Christians. Was this proportion decided in advance, or were applications granted as received ?

Mr. YOUNG replied that, apart from those immigrants who came under the Labour Schedule the number was determined by the number of applications received from persons who fulfilled the conditions.

With regard to the Labour Schedule, the number was fixed twice a year and included only Jewish labourers. So far as he was aware, there was no demand for admission from labourers other than Jews.

COMMUNIST ACTIVITY IN PALESTINE.

The CHAIRMAN stated that, according to an article in the French Press on February 1st, 1931, a Communist Congress composed of Arabs and Jews had met at Jerusalem in December 1930. An organisation had been formed in which the Arab element was predominant. He asked if these arrangements had been made with the knowledge and permission of the British Government. The Arabs said that the Communists were mostly found among the Jews, while the Jews stated that most of the Communists in Palestine were Arabs.

Mr. YOUNG replied that he had not heard of any statement on the part of Jews that the Communists were mostly Arabs. On the contrary, he thought it was admitted that they were mostly Jews. He could give no information regarding the alleged Congress in December 1930. He knew there were Communists in Palestine and that they held meetings, but he was not aware of any meeting which could be dignified with the name of a Congress.

Dr. Drummond SHIELS added that the authorities in London had no knowledge of this Congress; it appeared to be merely a newspaper report.

The CHAIRMAN asked whether the Intelligence Service had been re-organised.

Mr. YOUNG replied in the affirmative, and said it was now on a much more satisfactory footing.

The CHAIRMAN was glad that the Intelligence Service had been re-organised and hoped that it would work quite satisfactorily. He added that, as the service was now better organised, it would be inexplicable if the French Press were better informed than the Administration. It was evident that some circles were alive to the danger of Communist activity in Palestine. He therefore hoped the Palestine Government would keep this danger in view.

Dr. Drummond SHIELS said that, whereas he supposed that the Communists in all countries were connected with Moscow, he had no reason to believe that the relations were such as not to be fully in the knowledge of, and appreciated by, the Palestine Administration. It was difficult to prevent people of extreme political views from entering the country. The Administration would, however, keep in view the seriousness of this question.

TWELFTH MEETING.

Held on Tuesday, June 16th, 1931, at 4 p.m.

Palestine: Examination of the Annual Report for 1930 (continuation).

Dr. Drummond Shiels, Mr. M. A. Young, Mr. O G. R. Williams and Mr. R. V. Vernon came to the table of the Commission.

LAND REGIME AND LAND SETTLEMENT.

M. VAN REES observed that on page 33 (paragraph 6) of the report the Jewish National Fund was stated to have purchased 16,950 dunums of agricultural land, whereas at the top of page 48 it was stated that 43,882 dunums of land were purchased by Jews. He supposed that the latter figure represented the total quantity of land which passed into Jewish hands in 1930 and asked whether all these lands had been bought from Arabs or whether part had been bought as a result of transactions between Jews.

Mr. YOUNG pointed out that at the bottom of page 47 it was stated that 24,516 dunums of land were sold by Jews during 1930. It might certainly be concluded that a good part of this land was purchased by Jews.

M. VAN REES supposed that the rest would have been purchased from Arabs ?

Mr. YOUNG assumed that that was so.

M. VAN REES further pointed out that, on page 39 of the report (paragraph 24, second sub-paragraph), it was stated that under the Ottoman Law " in the event of failure to cultivate for three consecutive years or of failure of heirs within certain degrees the land reverts to the State as ' Mahlul ' (vacant land). " Was this law still in force ?

Mr. YOUNG replied in the affirmative. The land became " Mahlul ", but the owner was entitled to recover it on payment of the unimproved value of the land.
He added that, to his knowledge, this provision had not been universally applied.

M. VAN REES asked if it had been applied on occasion.

Mr. YOUNG replied in the affirmative.

M. VAN REES asked whether it had been applied in the case of large Arab land-owners who left part of their land uncultivated.

Mr. YOUNG was not aware of any such case.

M. ORTS had heard of a case mentioned in a Jewish newspaper (*Jüdische Rundschau*, of October 17th, 1930) of an action brought before the Courts by several Arab tenants who claimed a right of pre-emption in respect of properties in Wadi Hawareth. Was this a case to which the Ottoman Law mentioned by M. Van Rees applied ?

Mr. YOUNG replied that this was altogether a different matter. It was a claim by certain tenants to the possession of a prior right under paragraph 41 of the Ottoman Land Code to purchase the lands which they had occupied as tenants. The case was before the Courts, and no final decision had yet been reached.

M. ORTS asked whether such cases were frequent, and whether it was true, as was suggested by the newspaper in question, that it might lead to the cancellation of a large number of existing titles.

Mr. YOUNG was not aware of any other similar case. There might, however, have been cases in the past before his arrival in Palestine.

The article of the Ottoman Land Code under which this case had been brought restricted the right of pre-emption to villagers who could show that they were in need of land.

M. ORTS asked whether the Ottoman Land Code prescribed a time-limit within which such suits might lie.

Mr. YOUNG replied that he had not a copy of the Code with him: but there must undoubtedly be some time-limit.

M. ORTS asked when the Land Development Plan, to which reference was made in the White Paper and in the Prime Minister's letter to Dr. Weizmann, was to be put into operation.

It was said that the detailed measures had still to be worked out. What were the measures in question ? Did it mean that the Administration proposed to wait until all the land had been surveyed ? That work might take years.

M. Orts, would also like to know for what purposes the £2,500,000 loan was intended. How much of it would be devoted to land development ?

Dr. Drummond SHIELS replied that the Commission might take it, that the first object of the scheme was the replacement of landless Arabs who had been dispossessed as a result of Jewish colonisation.

As regards the other various proposals for irrigation, drainage and intensive cultivation, etc., the main object was to render more land cultivable than existed at present.

Information, however, was lacking or imperfect on a number of vital points, and such information as was available was in some cases disputed. It might take six months or more to obtain the necessary particulars as to (*a*) the actual position and (*b*) the possibilities of development. When these particulars and suggestions were available, it would be possible to draw up lines of action for the development authority to work out.

M. VAN REES asked that as many details as possible of the plan might be given in the next annual report.

Dr. Drummond SHIELS promised that this should be done.

Lord LUGARD asked whether the Jews did not claim to have made provision for all the Arabs who had been evicted as a result of Jewish land purchases.

Dr. Drummond SHIELS replied that the Jews claimed not to have dispossessed Arabs in any case without compensation. But the compensation frequently took the form of money, and had been spent by the recipients, who were now without either land or money.

He might add that the Jewish authorities quite agreed that these dispossessed Arabs should be a first charge on the Development Fund.

Lord LUGARD asked whether that meant that all the dispossessed Arabs were to be given land. Would not some prefer to become wage-earmers ?

Dr. Drummond SHIELS, in reply, quoted paragraph 9 of the Prime Minister's letter to Dr. Weizmann:

> " The language of this passage needs to be read in the light of the policy as a whole. It is desirable to make it clear that the landless Arabs to whom it was intended to refer in the passage quoted were such Arabs as can be shown to have been displaced from the lands which they occupied in consequence of the lands passing into Jewish hands, and who have not obtained other holdings on which they can establish themselves, *or other equally satisfactory occupation.*"

The last five words were the answer to Lord Lugard's question. The passage continued:

> " The number of such displaced Arabs must be a matter for careful enquiry. It is to landless Arabs within this category that His Majesty's Government feel themselves under an obligation to facilitate their settlement upon the land."

M. SAKENOBE asked, under what circumstances, pending the development scheme, Jews were allowed to buy land from Arabs.

Dr. Drummond SHIELS replied that the recent legislation was not designed for the control of the disposal of land but for the protection of tenants from eviction.

The question of the disposal of land would come before the Development Commission. It was a question of considerable difficulty, and it was intended to apply the necessary legislation on the advice of the development authority.

In reply to M. Van Rees, Dr. Drummond Shiels added that the Protection of Cultivators Amendment Ordinance, 1930, was already in force.

Mr. YOUNG explained that the principal provision of the Ordinance was to the effect that no court might make an order for eviction unless the landlord previously satisfied the judge that the tenancy had been validly determined under the Ordinance, and unless the High Commissioner was satisfied that equivalent provision had been secured towards the livelihood of the tenant.

The latter requirement was however waived in the following cases: (*a*) where the tenant had not paid his rent, (*b*) where the tenant had not properly cultivated the land, and (*c*) where the tenancy was terminated in virtue of an order of bankruptcy.

The Ordinance gave similar protection from eviction to anyone who was exercising and had exercised for five years continuously a practice of grazing or watering animals or cutting of wood or reeds or other beneficial occupation of a similar character.

M. SAKENOBE asked what happened when the land was only held by the small proprietor without any tenants.

Mr. YOUNG replied that the Ordinance only related to evictions, and that in the case mentioned by M. Sakenobe no question of eviction would arise.

M. SAKENOBE asked whether it was to be concluded that small landlords could sell without any restriction.

Mr. YOUNG replied that that was so.

In reply to a question of M. Van Rees, Mr. Young added that the purpose of the recent Ordinance was to protect tenants from eviction, either (*a*) by the vendor—for example, in cases where he might wish to clear his land of tenants before selling, or (*b*) by the purchaser.

M. VAN REES asked if the Ordinance applied equally to all sellers, both Arabs and Jews.

Mr. YOUNG replied in the affirmative.

M. VAN REES reminded the Commission that at the seventeenth session he had put certain questions with regard to landed property in Palestine (see Minutes of the Seventeenth Session, pages 62-3 and 78), and he had understood from Dr. Drummond Shiels that these points would be brought to Sir John Hope Simpson's notice and that the latter would, if possible, reply to them in his report.

Presumably they came too late for Sir John Hope Simpson to deal with them, as there was no reference to the subject in his report. Nevertheless, these questions were, in M. Van Rees' opinion, of particular importance. It would always be difficult to form a definite idea of the potential possibilities of agricultural development, and of the possibility of ensuring a loyal execution of the mandate in conformity with the guiding principles laid down by the British Government, as long as complete details of the present agricultural conditions were not available.

It had been said that this detailed knowledge was still lacking, that the statistics and figures available as a result of the enquiries were not all sufficiently reliable and that a new enquiry would therefore be made. This was not going too far, for an analysis of some of the estimates upon which the calculations were based, in particular those concerning the amount of cultivable land, the land still available and the number of Arab cultivators who were now deprived of their lands, led of necessity to the conclusion that the investigators had shown more audacity than was justifiable. A new enquiry would not therefore be at all superfluous, and the White Paper and the letter to Dr. Weizmann announced that it would be made. It was to be hoped that the results would be less speculative. Nevertheless, in order that the new calculations might be satisfactory, it was important, he thought, that they should extend to certain questions that would serve to clear up some points which up to the present had remained obscure.

While not wishing to enumerate all the questions, M. Van Rees would draw attention to some of them:

1. How was the rural land distributed between (*a*) the large Arab land-owners, (*b*) small Arab land-owners and (*c*) Jews ? He had seen it stated, though he could not vouch for the accuracy of the statement, that approximately half of all the cultivated land, other than that belonging to the Jews, was in the hands of large Arab land-owners.

2. Were there large Arab land-owners who cultivated all or part of their land themselves ? If so, what percentage of the total land-owners did they represent ?

3. On the large estates of Arab landlords what was the percentage of uncultivated land ?

4. The Shaw report (page 114) said that of the land bought by the Jews, about 90 per cent was land formerly belonging to big Arab land-owners, and 10 per cent to small Arab land-owners. Was that correct ?

5. What was the approximate number of Arab farmers who actually occupied the lands sold to the Jews at the moment of their transfer to the latter ?

6. How many of these farmers had been obliged to leave the lands without having been provided with other lands in exchange and how many had not received any adequate compensation ?

M. Van Rees would confine himself to these questions, which he gave merely as examples. Perhaps it would be possible to take them into consideration during the investigations which were being made or would be made. Perhaps also it would then be possible to explain the curious fact that it was precisely the large Arab land-owners who protested most vigorously against the sale of land to the Jews, although they had benefited most from those sales and, if he were not mistaken, would continue to profit, in spite of their protests that all sales of land to the Jews should be prohibited.

Dr. Drummond SHIELS replied that M. Van Rees would appreciate that Sir John Hope Simpson had only been in Palestine for a little over two months and had had in that period to conduct a very extensive enquiry. Sir John Hope Simpson had been bound to accept estimates and approximations as supplied to him. Under the circumstances he could not do otherwise.

The new enquiry, however, was a different matter, and it would cover all the extremely important points which M. Van Rees had raised. He would see that M. Van Rees' questions were put before those conducting the enquiry.

M. VAN REES thanked Dr. Drummond Shiels for his reply.

He wished to refer for a moment to one other special point. At the seventeenth session he had drawn Mr. Luke's attention to a newspaper article entitled " The Absentee Landlord ", published in a Jewish paper appearing in New York.[1] The report for 1930 went into the matter in a special appendix (see Appendix V on page 244).

M. Van Rees wished to express his thanks for the detail with which the article had been treated. He regretted, however, that the article in question had not been included in Appendix V of the report, so that the reader of the appendix had before him only the refutations and not the article itself. So far as the refutations were concerned, M. Van Rees ventured to observe that the principal point of the article had been ignored. The writer of the article was not opposed to the Beisan Agreement of 1921, which he recognised to be well founded, but to the way in which it had been applied.

Paragraph 15 of Appendix V rightly stated that the object of the Agreement was " to give the cultivator tenants an interest in the development of their plots, and not to provide them with land for speculative ends ". The main point of the newspaper article was that speculation had in fact resulted; and this was confirmed by no less an authority than Sir John Hope Simpson himself, whose expert view was accepted by His Majesty's Government as a basis for the policy put forward in the White Paper. On page 85 of his report Sir John wrote:

> " The whole of the Beisan lands have been distributed, and large areas have already been sold. Further large areas are in the market. The grant of the lands has led to land speculation on a considerable scale. The custom is that the vendor transfers to the vendee the liability for the price of the land still owing to the Government and, in addition, takes from him a sum varying from three to four pounds a dunum for land in the Jordan Valley. These proceedings invalidate the argument which was used to support the original agreement. It was made in order to provide the Arabs with a holding sufficient to maintain a decent standard of life, not to provide them with areas of land with which to speculate."

M. Van Rees merely made the observation; he did not ask for further explanations.

M. RAPPARD, referring to paragraph 25 on page 39 of the report, noted that, for the first time, the Mandatory had made a statement concerning the employment of waste lands for purposes of closer settlement by Jews. He observed, however, that one of the allocations had been partly made before the war, one had been made during the war and had since been confirmed, a third was a swamp, a fourth had had to be abandoned for lack of water, while the fifth, which he had himself had the pleasure of visiting, consisted of a small plot on the shore at Tel-Aviv used as a site for a bathing establishment, restaurant and esplanade. In point of fact, therefore, the application given to the relevant provision of Article 6 of the mandate seemed exceedingly modest.

Dr. Drummond SHIELS thought that the statement in the report showed that the matter had at least been kept in mind, and pointed out that there had been other cases in addition. As he had observed last year, the idea that a great deal of State land was available for settlement was quite erroneous. In any case, closer Jewish settlement was one of the items of the development programme.

Lord LUGARD enquired whether any particular attention had been paid to the coast belt, the strip shown on the map as " sand dunes " extending from a point a little south of Jaffa to the south-west boundary of Palestine. He had seen it stated somewhere that the Jews declared that 50,000 families could be settled on this belt, and that there were only a very few Arabs upon it.

---

[1] See Minutes, Permanent Mandates Commission. Seventeenth Session, page 100.

Dr. Drummond SHIELS replied that, although a great deal of coastal land had already been laid out and transformed by the planting of orange and other groves, there was very little change in the actual southern part to which reference had been made; a considerable area, he thought, had not yet been dealt with, as he understood that water was required. That point would also be considered by the development authority.

NATIONALITY.

M. PALACIOS was grateful to the mandatory Power for having replied (on pages 58-60) to the questions raised last year. He would be glad to have information on two further points.

The report stated on page 36 that 1,432 Palestinian citizens had left Palestine permanently during the year 1930. It stated further that that figure included 597 Jews. He enquired whether these were, in the main, persons who had settled in Palestine since the establishment of the Jewish National Home and, if so, what was their present national status. Did they retain their Palestinian nationality or had they resumed their former nationality ?

In the second place, the table on page 47 of the report showed, under the heading " Emigration ", 193 foreign Jews whose destination was given as Poland and 134 foreign Jews whose destination was given as other European countries. He enquired whether the majority of these were Jewish immigrants who had given up the idea of obtaining the status of Palestinian citizens or to whom that status had been refused. The table in question also showed a total of 989 Palestinian and foreign Jews who had left Palestine for the United States of America and South America. Were these also ex-immigrants who had given up the idea of settling in the mandated territory ?

Mr. YOUNG replied that he was not in a position to say with certainty how many of these were Jews who had entered Palestine since the establishment of the mandate. Probably the great majority were persons who had entered the country in recent years and decided afterwards to return to their place of origin. If they had already obtained Palestinian citizenship, they would retain that citizenship for a certain period, until it became evident that they had no intention of returning to Palestine. Otherwise, they would presumably retain the status which they had possessed before entering Palestine.

M. VAN REES wished to put a question concerning the former Turks who had opted for Palestinian citizenship and foreigners who had become Palestinian citizens by naturalisation. Was Palestinian citizenship considered a distinct nationality from an international standpoint, or were such persons treated as British protected persons outside Palestine ?

Mr. YOUNG replied that they possessed the status of Palestinian citizens and received the treatment accorded to British protected persons outside Palestine. His impression was that the holder of a Palestinian passport was recommended to the British consular officers.

M. VAN REES enquired whether any essential distinction existed between Palestinian and other nationalities (British or French, for example). Article 22 of the Covenant spoke of certain communities whose existence as independent nations could be provisionally recognised. Palestinians should not be treated on the same footing as natives of Togoland or the Cameroons. To take another territory, under A mandate—namely, Syria: Syrian nationality was recognised as a separate nationality outside Syria. Was Palestinian nationality recognised in the same way outside Palestine ?

Mr. YOUNG replied in the affirmative. A Palestinian citizen, he said, possessed full Palestinian nationality, and the fact of his being a British protected person did not derogate from that status.

M. VAN REES understood that the description " British protected person " constituted, as it were, an additional guarantee.

Mr. YOUNG replied that it might be so described.

M. VAN REES wished to submit certain observations on the subject of the Nationality Law of 1925. He referred to question 2 on page 58 of the report: " Have special provisions been enacted, framed so as to facilitate the acquisition of Palestinian citizenship by Jews ? " The question as set forth represented the requirements laid down in Article 7 of the mandate. He enquired whether *special* provisions had been enacted, framed so as to facilitate the acquisition of Palestinian citizenship. The report stated that Article 5 of the Law of 1925 *facilitated* the acquisition of Palestinian citizenship by Jews. It added that the qualifications for naturalisation were simple: two years' residence in Palestine out of the three years preceding application, good character and the declared intention to settle in Palestine, knowledge of Hebrew—in addition to English and Arabic—being accepted under the literacy qualification.

What the report did not bring out was the fact that the conditions for naturalisation applied equally to all persons other than ex-Turkish subjects. The Law of 1925 treated a Jew who entered the country just like any other foreigner; it made no essential distinction between Jews and non-Jews, nationals of any country, as regards either the conditions required to obtain naturalisation or the cancellation of certificates of nationality. The law conferred on the High Commissioner, under Article 7, paragraph 3, the right to refuse regular applications for

naturalisation without specifying the reasons for such refusal; it recognised the British Government's right to cancel naturalisation, should the holder of the certificate, as provided in Article 10, have been absent from Palestine for more than three years or have been found " by act or speech " to be disloyal to the Palestine Administration.

In view of the above-mentioned facts it would appear doubtful whether the law in question could be regarded as exactly fulfilling the purpose of Article 7 of the mandate, or the explicit declaration of His Majesty's Government in June 1922 (White Book, Cmd. 1700, page 30) to the effect that the Jewish people was to be considered as being in Palestine " as of right and not on sufferance ". That declaration either meant something definite or it meant nothing at all.

If it meant something definite, it might at least be inferred that Jews admitted to Palestine should be regarded there, not as foreigners whose presence in a country not their own was tolerated, generally speaking, only until further orders, but as constituting in that country a definite element of the Palestine population.

The telegraphic instructions sent by the British Government to the Palestine Administration on June 29th, 1922, under the terms of which the Jews were to be considered as being in Palestine " as of right and not on sufferance " gave expression, as the speaker had already remarked (see Minutes of the Seventeenth Session, pages 38 and 39), to the fundamental idea of the establishment of a national home in Palestine; they explained similarly why Article 7 of the mandate for Palestine explicitly directed attention to the Jews and provided that the necessary provisions should be enacted to facilitate the acquisition of Palestinian citizenship and why the Mandates Commission expressed in its questionnaire a desire to be informed of the " special provisions " whereby the object set forth in Article 7 of the mandate might be ensured.

M. Van Rees felt that very inadequate provision had been made in the Law of 1925 for these considerations, seeing that the law did not even mention the Jews and contained absolutely no indication that due account had been taken of their exceptional situation in Palestine.

He would not state that in itself the law was open to criticism: considered as a law for regulating the acquisition of nationality it might be perfect, but it could be so only in a country other than Palestine. He could not therefore regard the reply on page 58 of the report as being fully satisfactory. He did not expect an immediate answer to his observations, but would like them to be taken into consideration.

Dr. Drummond Shiels said that he was very grateful to M. Van Rees for his statement. One difficulty was that, when a Jew came to Palestine, he came, not as a Jew, but as a foreign national of one kind or another.

M. Van Rees agreed, but pointed out that such a person was still a Jew, whether of French or any other nationality. He did not enter the country without being in possession of a certificate giving him the right so to enter, in accordance with the regulations for Jewish immigration. He came, therefore, in his capacity as a Jew and not as a national of any particular country.

Dr. Drummond Shiels concurred, but suggested that in international law there was no such thing as a Jew from the standpoint of nationality.

M. Van Rees agreed that Dr. Drummond Shiels would be perfectly correct from the point of view of international law, were it not for the existence of the Balfour Declaration, the Mandate and the White Paper, which had introduced a new element into this law in favour of the Jewish people.

Dr. Drummond Shiels said that the question would certainly be considered in the light of M. Van Rees' remarks. A clear statement of the position and the reasons for it would be prepared by the mandatory Power.

Judicial Organisation.

M. Ruppel referred to the Indemnity Ordinance passed to restrict the taking of legal proceedings against public officers and officers of His Majesty's forces in respect of acts done on account of the disturbances in Palestine in the year 1929. This seemed to imply that in Palestine officials and army officers could be made personally responsible for acts done in execution of their legal functions. If this were the case, he wondered for what reasons this liability had been restricted in the case of the disturbances of 1929. The report on the other hand mentioned compensation granted by the Government for loss due to the action of civil or military forces. He would be glad to have some explanation on these two points.

Mr. Vernon thought that the answer could best be given by explaining the general position of the law in the United Kingdom and in British colonies. It was necessary to provide for the exercise, in extreme cases of emergency, of powers going beyond the provisions of the ordinary law, which might amount to an enforcement of martial law. A public officer might have to act in excess of his powers and it would thus be possible for proceedings to be taken against him for abuse of power. Accordingly, it was the regular practice to enact what was known in England as an act of indemnity and in Palestine as an ordinance of indemnity. It was also the British practice to provide for the compensation of individuals who might have suffered, under the exceptional conditions just described, from extra legal powers so exercised.

M. RUPPEL thanked the mandatory Power for including in the report for 1930 a very complete description of the judicial system and a full account of the activities of the Religious Courts for which the Commission had asked last year. Referring especially to page 68 of the report, he noted the high number of persons tried before the Court of Criminal Assize on capital charges. He noted also that of the 163 persons in question, 107 had been acquitted. He enquired whether this pointed to inefficiency on the part of the police.

Mr. YOUNG observed that the figures for " Murder " under " Incidence of Serious Crime " on page 82 of the report should read 126 (not 166). He agreed that, even allowing for the number of cases which were not finally included in the criminal statistics as true murder cases, the figures for capital charges were high, and he could only hope that they would be progressively reduced.

M. RUPPEL, referring to the appointment of a British Judge of the Supreme Court of Palestine as a member of the Full Court of Appeal from the Supreme Court for Egypt, enquired whether this Full Court possessed jurisdiction over Palestine.

Mr. YOUNG explained that the Court only possessed jurisdiction in the case of appeals from Egyptian Courts.

M. RUPPEL, referring to the Religious Courts, noted that, in the Sharia Courts, judges and inspectors were on the Civil Establishment of the Palestine Government. He observed that judges other than those of the Moslem community, were not paid by the Government, and enquired why there was any discrimination in the matter.

Mr. YOUNG replied that the facts were as stated, the fees of Court being credited to the Palestine revenue. The inclusion of Sharia officials as Government officials was, he thought, a relic of Turkish days. So far as he knew, there had never been any complaint in the matter from the other Courts.

M. RUPPEL noted that the British Government had recently been asked in Parliament to give information in a case where the witnesses had been allowed to give evidence behind screens. The Under-Secretary of State had replied that the competent officer had been informed that that procedure was improper and that it should not be adopted. He enquired whether the accredited representative could give further details about the case and tell the Commission whether, according to local custom, witnesses had been allowed to give evidence without actually appearing before the Court.

Mr. YOUNG replied that the procedure was not in accordance with precedent; the officer in charge had considered it advisable, but had since been told that it was not so. The case in question was unique.

M. RUPPEL noted that reference had been made in the Parliamentary Debates on May 20th, 1931, to a penal case where the Press was not allowed to attend. He enquired whether there was a general rule regulating access of the Press to the Courts.

Mr. YOUNG replied that it was within the discretion of the judge to exclude the Press and the public: the matter must, he thought, be left to the discretion of the judge.

Lord LUGARD, referring to the statement on page 65 of the report to the effect that twenty-seven persons had been admitted as advocates before the Civil Courts during the year, enquired whether there was a superabundance of legal practitioners in Palestine. He enquired also whether advocates were required to qualify in Moslem as well as in British law.

M. RUPPEL observed that under an Ordinance passed last year women were also allowed to practise as advocates.

Mr. YOUNG would not go so far as to say that there was actually an excess of legal practitioners. He was unable to answer the question concerning Moslem law.

Lord LUGARD enquired whether there was a right of appeal to the Supreme Court from the Land Court and also from the Religious and Community Courts. It had been found elsewhere that appeals in land cases led to unnecessary litigation, by which legal practitioners profited.

Mr. YOUNG replied that there was certainly a right of appeal from decisions of the Land Court. His impression was that there was no right of appeal from the Religious Courts on questions of personal status. He did not think that the number of appeals from the decisions of the Land Court was so great as to make much difference in the volume of work or the number of advocates.

M. PALACIOS wished to enquire concerning the composition of the Moslem Supreme Council. The Commission had been told last year that it was on a provisional basis.

Mr. YOUNG replied that that was still the case, and that no steps had been taken to alter the position.

PETITION OF MRS. EVELYN EVANS (documents C.P.M.1141 and 1152).

M. RUPPEL noted that in the British Government's observations on this petition reference was simply made to the fact that His Majesty's Government had persistently refused to take up the claim against certain foreign Governments, their reasons for doing so being explained in a letter dated May 29th, 1922, to the claimants' solicitors. He supposed, therefore, that the British Government did not ercognise any claim aganst themselves in their capacity as Mandatory for Palestine, and enquired further whether the petitioner could go before a Court and take proceedings against the British Government in Palestine. He pointed out that the British Government's letter of 1922 had been written before the conclusion of the Treaty of Lausanne, which contained provisions relating to concessions. He would be glad to have an explicit statement from the British Government, and to know whether their refused to recognise any claim against themselves as Mandatory.

Mr. WILLIAMS stated in reply that it had not been clear that the petitioner was petitioning against the British Government. She was, in any event, free to bring a case to the Palestinian Courts. His Majesty's Government did not recognise the claim as valid, under the provisions of the Treaty of Lausanne.

Dr Drummond Shiels, Mr. Young, Mr. Williams and Mr. Vernon withdrew.

POSTPONEMENT UNTIL THE NOVEMBER SESSION OF THE DISCUSSION ON PETITIONS RECEIVED FROM M. JOSEPH MOUANGUE AND THE INDIAN ASSOCIATION OF TANGANYIKA TERRITORY.

M. PALACIOS stated that he had been asked by the Chairman to submit a report on a petition relating to the Cameroons under French mandate from M. Joseph Mouangue, communicated by the mandatory Power on November 10th, 1930. The Commission had also requested him, at the opening meeting of the present session, to report on the petition of October 20th, 1930, from the Indian Association of Tanganyika Territory, communicated by the British Government on May 15th, 1931.

Although he was prepared to submit his conclusions—at all events, provisional conclusions—immediately, he would prefer to wait until the autum session, as the examination of the annual reports on the Cameroons under French mandate and on Tanganyika had been adjourned until that session. He requested the Commission to authorise him to defer communication of his reports on the two petitions in question.

M. Palacios' proposal was adopted.

LETTER FROM THE DISCHARGED SOLDIERS OF THE JEWISH BATTALION LIVING AT HAIFA.

M. PALACIOS read the following report:

" I have examined the letter from the discharged soldiers of the Jewish battalion living at Haifa (document C.P.M.1137), forwarded without comment by the mandatory Power on January 23rd, 1931. In my view this document simply contains a protest against the last White Paper which, in the opinion of the petitioners, removes or, at all events, restricts the ideal object of the promises which had induced them to enlist in the Gallipoli army: I think therefore that this communication should not be considered as a petition and that, in consequence, there is no reason for the Mandates Commission to take any special action in the matter."

The Commission adopted the conclusions of M. Palacios' report.

THIRTEENTH MEETING.

Held on Wednesday, June 17th, 1931, at 10.30 a.m.

Palestine: Examination of the Annual Report for 1930 (continuation).

Dr. Drummond Shiels, Mr. M. A. Young, Mr. O. G. R. Williams and Mr. R. V. Vernon came to the table of the Commission.

HOLY PLACES.

M. PALACIOS noticed that a report had been published by the Commission appointed with the approval of the Council to determine the rights and claims of Moslems and Jews in connection

with the Wailing Wall. He asked what impression this report had made on the state of mind of the population and what measures the mandatory Power contemplated taking.

Mr. YOUNG replied that he could give no account of the effect produced by the publication of this report, as it had only been published on the day he left Palestine. Up to that time there had been no untoward incidents. He thought it could be anticipated that, as the Commission confirmed the local arrangements which had been working satisfactorily for a year or more, the present peaceful position in respect of the Wailing Wall would continue.

M. PALACIOS stated that the *Corriere della Sera* of December 13th, 1930, had published a telegram from Jerusalem to the effect that the authorities had ordered restoration work to begin at the grotto of the nativity at Bethlehem. This action appeared to have raised protests from the Franciscans of the Holy Land, who regarded it as a violation of the *status quo*. He asked whether the accredited representative could give any information on this subject and could state whether the telegram in the *Corriere della Sera* was correct, and under what circumstances the authorities at Jerusalem had ordered the restoration of this sanctuary.

Mr. YOUNG replied that some minor restoration work had been required on account of some plaster falling from the wall near the steps leading to the grotto. This had resulted in the displacement of two nails to which the curtains, one belonging to the Latin and the other to the Orthodox church, had been attached. When the nails were reaffixed, the Latin patriarch complained that the nail used for the hanging belonging to the Latin church was no longer in the same position.

M. PALACIOS observed that this proved the necessity for the appointment of the Holy Places Commission for which provision was made in Article 14 of the mandate. Questions concerning the *status quo* were always difficult.

The CHAIRMAN remarked that in his view, Mr. Young had not replied to M. Palacios' question, and asked why the authorities had intervened.

Mr. YOUNG replied that they intervened in the hope of assisting the settlement of a difficult question.

The CHAIRMAN enquired whether the authorities were asked to intervene.

Mr. YOUNG could not be certain of that. It was probable that the authorities realised the difficulties which had arisen between the two parties and offered their services in order to settle them.

M. SAKENOBE asked whether the dispute between Moslem and Christian Arabs regarding the ownership of a cemetery at Haifa had been amicably settled, and whether this cemetery was considered as one of the Holy Places.

Mr. YOUNG replied that the dispute had been composed. Both parties claimed to have used the cemetery for many years or even for centuries, but it could not be regarded as one of the Holy Places.

CONCESSIONS. CONVENTION REGULATING THE TRANSIT OF MINERAL OILS OF THE IRAQ PETROLEUM CO., LTD. THROUGH PALESTINE.

M. ORTS noted that, in conformity with a promise given in the previous year by Mr. Luke, Annex II of the annual report for 1930 (pages 226 and following) gave a list of the concessions granted up to that time by the Palestine Administration. He thanked the mandatory Power for this information.

M. Orts drew attention to the text of a Convention, concluded between the High Commissioner and the Iraq Petroleum Co., Ltd., regulating the transit of mineral oils through the territory of Palestine (Annex III, page 230 of the report). This Company was incorporated in England and its registered office was in London. The Convention dealt the construction and operation of a pipe-line for the transport of oil from the centres of operation of the Iraq Petroleum Co., Ltd. to the St. Jean D'Acre Bay in Palestine. M. Orts thought that certain terms of this Convention called for some explanations.

Article IV, paragraph 1, read as follows:

> " No import tax, transit tax, export tax or other tax, or fiscal charge of any sort shall be levied on petroleum, naphtha, ozokerite, natural gases, whether in a crude state or any form of derivatives thereof, whether intended for consignment in transit or utilised for the industrial operations of the undertaking."

The first paragraph of Article V read:

> " The Company shall be entitled to import into Palestine free of Customs duties or other importation dues . . . all stores, equipment, materials and other things whatsoever which may be necessary for the works of the undertaking and for its transportation purposes, including all equipment for offices, houses, hospitals or other buildings, which will be the property of the Company and used for its operations . . . "

The first paragraph of Article XII read as follows:

" No property tax, income tax or any levy or fiscal charge of any sort shall be imposed on the Company in respect of its property, employees, the income or the turnover of the Company or the operation of the undertaking, save in respect of any profits accruing from sales of the Company's products for local resale or consumption in Palestine . . . "

Were these advantages and privileges accorded to the Iraq Petroleum Company compatible with Article 18 of the Palestine mandate, which provides that there should be " no discrimination against the nationals of any State Member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions " ?

M. Ruppel also called attention to Article VI, paragraph 3, and to Article VIII. The former article referred to the payment of port dues, wharfage, lighterage and other harbour dues on schedules of special rates to be agreed between the High Commissioner and the Company, while the latter article referred to special reductions in railway rates. Article VIII stated that rates were to be reduced in so far as such a reduction was consistent with existing international obligations. This clause seemed to show that the drafters of the Convention had had doubts as to its compatibility with the terms of the mandate.

He also drew attention to paragraphs (*d*) and (*e*) on page 76 of the annual report, which stated that there was no economic discrimination in the fiscal regime or in the Customs regulations of the Palestine Government, with the exception of special privileges enjoyed by certain foreign charitable, religious and educational institutions which were granted prior to the war by the Turkish Government, but that no fresh privileges of the kind had been granted. He considered that the last statement was in disagreement with the terms of the Convention between the High Commissioner and the Iraq Petroleum Company, Limited, by which the latter was accorded preferential treatment.

Dr. Drummond Shiels replied that the Iraq Petroleum Company was not a purely British company but was composed of national groups representing Great Britain, France, the United States of America and the Netherlands. Moreover, the Convention referred to a transit concession, as the Company was solely engaged in conveying a commodity through Palestine. The position would be different for a company importing into Palestine. Lastly, the Convention did not create a monopoly and there was nothing to prevent the granting to other companies of similar concessions under similar conditions. He, therefore, thought the Convention was not in disagreement with Article 18 of the mandate.

M. Orts said the question of the nationality of the capital employed and of the Company itself was of secondary importance. Further, M. Orts was not arguing that the Convention in question created a monopoly in favour of the Company and, moreover, even if that were so, he would have no criticism to make, seeing that the mandate did not prohibit the setting up of a monopoly.

Again, the fact that the object of the Company's activity was transit traffic was not important seeing that the exemptions from import duties covered goods imported for local consumption and the exemptions from taxation applied to persons and immovable property in the territory.

This was a question of interpretation, and the point which arose was whether the advantages granted to the holders of the concession were not precisely those which were prohibited by Article 18 of the mandate, paragraph 2 of which said that the Mandatory could " take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population ", it being understood that in this matter the action taken by the Mandatory would be " subject to the aforesaid . . . provisions of this mandate ". The provisions in question were those which prohibited all discrimination in matters concerning taxation, commerce, the exercise of professions, etc.

Dr. Drummond Shiels said he had referred to the composition of the Company as M. Orts had suggested that it was purely British. He repeated that the Government saw no discrimination in the clauses of the Convention, as such privileges as were given might be granted to any other company.

The exemption from import duties only referred to goods used in the undertaking and not to articles for sale. He therefore thought the Convention could not be accurately described as contrary to the mandate.

He could not state definitely, but he believed that, in respect of the other end of the pipe-line in Syria, the Company enjoyed similar privileges.

M. Ruppel stated that he was not satisfied with the reply, as the Company was without doubt receiving preferential treatment in various respects.

Dr. Drummond Shiels replied that there could be no preferential treatment where only one party was concerned. The Company received privileges but had not a monopoly of those privileges. There was no discrimination against, nor could any comparison be made with, any other company. The factors which would permit of such a charge being made were not present, as there was only one one party concerned. If the products of the Company had received preferential treatment in competition with local products, this would have represented a concessoin in respect of fiscal

charges. But Article IV, paragraph 2, of the Convention definitely stated that, if the products of the Company were marketed locally for consumption in Palestine, they would be subject to the same duties and fiscal charges, including import dues, as were leviable on similar products in Palestine.

M. ORTS stated that he also was not satisfied with the accredited representative's reply. Dr. Drummond Shiels had used two arguments. In the first place, it was claimed that there was no discrimination as the goods imported duty free were for the Company's own use and not for sale. He did not consider this argument to be valid as the fact of exempting consumption goods from taxation gave a definite advantage to the Company.

The second argument was that there was no discrimination, since no comparison could be made with other companies. It was certain that such a comparison could only be made if another Company obtained the concession for a second pipe-line, which was not likely. The only question which arose was whether the benefits granted to the holders of the concession were those which were permitted under the terms of the mandate and not precisely those which were prohibited. It must be recognised that a comparison between the terms of the Convention and those of the mandate led to the latter conclusion.

Dr. Drummond SHIELS thought it was hardly profitable to pursue the discussion in view of the very definite difference of opinion. He would point out, however, with regard to the duty-free goods, that these were merely stores, equipment and materials necessary for the working of the undertaking. Many of them were unobtainable in Palestine and had to be brought into the country. If this represented a fiscal concession, it was a very narrow one, and of such a nature as not to justify the kind of criticisms that had been made.

M. ORTS had heard the accredited representative say that a similar concession had been granted to the same Company at the other end of the pipe-line in Syria. The Commission had no knowledge of such a concession.

M. RAPPARD said he had followed the discussion of this complex question with great interest. In his opinion, if the Company sold its products locally in Palestine on the same conditions as other companies, this did not imply equality, as the Company had the advantage of not paying import taxes, transit taxes, property taxes, etc., on its whole business. The Company's costs of production must necessarily be reduced in comparison with those of its competitors by the reason of all the exemptions it enjoys.

He wished, however, to regard the matter from another point of view. When the High Commissioner granted the concession, he was, no doubt, inspired solely by the interest of the territory. The granting of such privileges, however, were calculated to deprive the territory of considerable receipts from taxation. Probably, the High Commissioner considered that this price had to be paid in order that the pipe-line might go through Palestine and that, if he had refused this privilege to the Company, there would have been a loss in total receipts from taxation. If, however, these favours were granted for the purpose of competing with another mandated territory in order to secure the installation of the pipe-line, the extraordinary position arose that the principle of fiscal equality had to be violated in order to allow one of these territories to compete with another.

Dr. Drummond SHIELS said he could not deal with the larger question of the relations between different mandated territories, and must leave this to the Mandates Commission, but there was no question of competition involved.

With regard to Palestine, he suggested that there could be no infringement of Article 18 of the mandate, as there was no discrimination against the nationals of any State Member of the League of Nations. It might be thought that the Company had received too generous terms, but in all countries it was a common custom for Governments and local authorities to give concessions for factories and new industrial undertakings as an inducement for them to become established in the country. This, however, represented no violation of the rights of other citizens, and, in many cases, had nothing to do with competing State nationals. He was firmly convinced that there was no discrimination in the sense of Article 18.

M. ORTS replied that such privileges were no doubt given to companies in many other countries, although it was rare to grant exemption from land taxes; a fundamental difference, however, was that such countries were not under a mandate.

He asked whether any other tax-payers in Palestine were exempt from land taxes, income taxes, etc.

Dr. Drummond SHIELS said he had made the comparison with concessions in other countries, because they were granted under similar conditions to the concession of the Iraq Petroleum Company in Palestine. In other countries they were readily granted to public utility companies such as this was, and, as in the present case in Palestine, the concessions were granted in the general interests of the country.

He said that, as far as he knew, no other tax-payer had been exempted from the same taxes, as none was in the same position.

M. RAPPARD compared the granting of fiscal exemption by the High Commissioner to the surrendering by a guardian of rights possessed by his ward, thereby reducing the revenue of the latter. In this case the guardian was of the same nationality as the ward and this created a very delicate position. He asked whether Dr. Drummond Shiels could state that the High Commissioner

in his negotiations with the Company was free to consider solely the interests of the territory, in spite of the fact that a British company was concerned.

Dr. Drummond SHIELS did not agree that the High Commissioner was giving away any advantages or was decreasing revenue. The Government would be disappointed if that were the case, as it had in view an increase in the collective revenues of the entire territory as a result of the Company's operations.

With regard to the nationality of the Company, he had already mentioned the various national groups interested. They were represented in equal proportions, and the British share was by no means preponderant. M. Rappard's point that privileges had been given to a party of the same nationality as the High Commissioner did not therefore hold good.

Consultations had taken place on this subject between the High Commissioner and the Colonial Office and both had been inspired entirely by the interests of Palestine. The charges made in this connection were therefore groundless.

M. RAPPARD did not wish his remarks concerning the guardian and the ward to be misinterpreted. *Prima facie,* the guardian's action lowered the ward's income. He thought the correct answer was that, if no concession had been granted, no pipe-line would have been constructed to Haifa and future revenues would thereby be reduced.

Dr. Drummond SHIELS said he took no great objection to M. Rappard's last remarks though there was no actual lowering of income involved.

He had tried to make his own position and that of the Palestine Government clear, and he had nothing to add. They believed that they had acted throughout in the interest of the territory under mandate.

M. VAN REES said that the question was a very delicate one. The fact that he had not taken part in the discussion, must not be interpreted as indicating his assent to the suggestion which had been put forward that the action of the Palestine Government in the matter of the Convention infringed the terms of Article 18 of the mandate.

The question under discussion related to a concession. Now, Article 18 of the mandate did not refer to concessions. At the time when this article was drafted, the British Government had, for special reasons, intentionally refrained from extending the principle of equality to concessions of all kinds. [1] Consequently, this principle did not apply in Palestine to concessions.

So far as M. Van Rees was concerned, this fact alone did not settle the question under discussion but it nevertheless seemed to him to be of such a nature as to give rise to doubts concerning the theory that, in the present case, Article 18 of the mandate was infringed. The question was so complex that it deserved more detailed study, and he would therefore propose that it should be postponed to a later meeting.

M. Van Rees' proposal was adopted.

CONCESSIONS FOR THE EXPLOITATION OF THE DEAD SEA SALT DEPOSITS.

M. ORTS referred to questions asked in the House of Commons (July 16th and December 8th, 1930, and February 16th, 1931) on the subject of concessions for working the Dead Sea salt deposits.

It appeared from the replies of the Foreign Secretary that the mandatory Power was negotiating with the French Government in regard to a claim for arbitration put forward by a French group which had been deprived of rights acquired under Turkish rule, owing to the concession granted to Mr. Moses Novomeski. Was the accredited representative in a position to say how the matter stood ?

Mr. WILLIAMS replied that, when he left England, no conclusion had been reached. His Majesty's Government had informed the French Government that it was willing to refer the matter to arbitration on specific conditions, but, so far as he knew, the French Government had not yet accepted this proposal.

EXECUTION AND EXPLOITATION OF PUBLIC WORKS. RELATIONS WITH THE JEWISH AGENCY.

M. VAN REES wished to make certain observations regarding Question 2 on page 75 of the report, the text of which is as follows:

> " Has it been necessary to arrange with the Jewish Agency to construct or operate any public works, services and utilities, or to develop any of the natural resources of the country, and, if so, under what circumstances ? "

The French text of the Questionnaire said " Y a t-il eu lieu de s'entendre . . . " while the English text said " *Has it been found necessary* . . . " He thought that the French text was closer to the terms of the mandate (Article 11, paragraph 2), which merely said: " *The Administration may arrange* . . . "

---

[1] See " Mandate for Palestine prepared in the Division of Near-Eastern Affairs ", Washington, 1927; pages 51, 56-57, 62-63.

The reply given in the report on the page mentioned above, merely stated that it had not been necessary to make any arrangement with the Jewish Agency with a view to the execution of public works or services, nor with a view to the development of the natural resources of the country.

Paragraph 2 of Article 11 of the mandate had therefore remained a dead letter, and this fully confirmed the observation made by M. Van Rees on this subject at the seventeenth session of the Commission (see page 43 of the Minutes).

Nevertheless, this paragraph had not been introduced into the mandate in order that it might be left on one side. It was useless to emphasise, as was done in paragraph 8 of the White Paper, that the provision in question " is only permissive and not obligatory ". It was none the less true that within the limits of the mandate this provision had a special meaning. On two occasions this meaning had been defined by the British Government themselves.

On December 29th, 1921, the United States Ambassador in London (Mr. Harvey) having suggested that the provision of Article 7 of the B mandate for East Africa should be introduced into the Palestine mandate, Sir Eyre Crowe replied in the following terms:

> " The suggestion appears to His Majesty's Government to overlook the peculiar conditions existing in Palestine and especially the great difference in the natures of the tasks assumed in that country and undertaken by them in East Africa. So far as Palestine is concerned, Article 11 of the mandate expressly provides that the Administration may arrange with the Jewish Agency mentioned in Article 4 to develop any of the natural resources of the country in so far as these matters are not directly undertaken by the Administration. The reason for this is that, in order that the policy of establishing in Palestine a National Home for the Jewish people should be successfully carried out, it is impracticable to guarantee that equal facilities for developing the natural resources of the country should be granted to persons or bodies who may be actuated by other motives."

In this explanation it was clearly recognised that paragraph 2 of Article 11 of the mandate, far from being of no importance, had been intentionally inserted in the mandate and was one of the constructive elements of the policy which the mandatory Power had undertaken to adopt with a view to the establishment of the Jewish National Home.

In the following year, in a Note (Cmd. 1708) dated July 1st, 1922, addressed to the Secretary-General of the League of Nations, in reply to a letter from Cardinal Gasparri of May 15th, 1922, His Majesty's Government stated in paragraph 5 that they:

> " Regard the provision by which the Administration may arrange with the Jewish Agency mentioned in Article IV to construct or operate upon fair and equitable terms any public works, services and utilities and to develop any of the natural resources of the country . . . as a legitimate recognition of the special situation which arises in Palestine from the charge which has been laid upon them by the principal Allied Powers, and also of the fact that the Jewish people in virtue of that policy are ready and willing to contribute by their resources and efforts to develop the country for the good of all its inhabitants."

M. Van Rees did not therefore think that he had been wrong when he had ventured to explain last year (see Minutes of the Seventeenth Session, page 39) that paragraph 2 of Article 11 of the mandate constituted, with Articles 2, 4, 6 and 7, a whole group of provisions which brought into relief the basic idea expressed in the Balfour Declaration and reproduced in the preamble to the mandate.

Clearly, this did not mean that the Palestine Administration would be obliged to come to an arrangement on every occasion with the Jewish Agency with a view to executing or developing, in so far as the Administration did not itself do this, the works and services of public utility, and with a view to developing the natural resources of the country. The mandate did not require this. But while that was so, it was very certain that, if the provisions of Article 11 were rendered practically non-existent, the intentions of the authors would be materially exceeded and the importance of the machinery which the British Government attached to it in 1921 and 1922 would be ignored.

He had spoken on this question at length in the hope that consideration might be given to the possibility of applying the provision in question more nearly in accordance with its real sense. This same hope he also wished to express in connection with the other provisions of the mandate to which he had referred during the discussions, the scope and origin of which must necessarily be very carefully considered in the light, primarily, of the old and more recent declarations made in connection with them by the British Government themselves.

Dr. Drummond Shiels replied that, if the form of Question 2 were altered, the Administration would be glad to alter the form of its reply.

He might say that the Jewish Agency had not been very active in the course of the past year, probably for economic reasons. So far as he knew, no application had been received from it for the delegation of public utilities of any kind. But if the Agency did apply, its application would receive sympathetic consideration.

He agreed with M. Van Rees that many of the articles of the mandate were none too clear. The British Government appreciated M. Van Rees' careful study of the terms of the mandate, and his comments would undoubtedly be of great value to them.

Economic and Agricultural Development: Establishment of an Agricultural Council.

M. Merlin observed that Palestine had not entirely escaped the economic crisis, though it had not suffered so much as other countries which were more highly industrialised. He noted that the Administration had increased the Customs duties in order to afford relief to business.

He asked for information as to the agricultural loans referred to on page 149 (paragraph 22) of the report. What steps did the Government propose in order to organise the agricultural credit system ?

Mr. Young replied that seed loans were made in 1930 and at the beginning of 1931 in consequence of the partial loss of the previous year's harvest.

As regards the Government's future policy, it had several times considered the question of re-establishing the former Ottoman Agricultural Bank. But for reasons which the Commission would find in the report, and more particularly in Mr. Strickland's report, the Administration had decided not to take this step, but to develop instead the system of agricultural co-operation in the villages.

Mr. Strickland had recommended the appointment of an officer acquainted with the co-operative system in Europe. This officer has not yet been appointed.

M. Merlin asked for further information with regard to the usurious rates of interest charged by money-lenders (see page 172, paragraph 20, of the report). Usury was a real scourge both in the Near East and in the Far East.

He noted that some local merchants secured advances at high rates of interest from Syria. He would like to know what proportion of the credits came from Syria.

Mr. Young had no information beyond what appeared in the report.

Lord Lugard said he understood an Agricultural Council had been set up, but he could not find much about it in the report.

Mr. Young replied that the Council was set up in January or February of the current year, and the report dealt only with 1930.

Lord Lugard would find some reference to its impending establishment on page 16, paragraph 46, where it was explained that the Council worked through the agency of a number of sub-committees dealing with different agricultural questions.

Lord Lugard asked whether Jews and Arabs co-operated on the Council. He understood there were some twelve non-official members.

Mr. Young replied that Jews and Arabs did co-operate on the Council. To the best of his recollection the number of non-official members was more than twelve.

Suppression of the Tobacco Monopoly.

M. Merlin observed that on page 74 it was stated that the Turkish tobacco monopoly had been discontinued. This step had been foreshadowed in the report for 1929 (page 31), which also stated that the tax of £E2 per dunum on land sown with tobacco had been replaced by an excise duty of 250 mils per kilo of tobacco. Could the accredited representative state the effects of the new system of taxation on (*a*) the cultivation of tobacco and (*b*) the revenue ?

Mr. Young was not in a position to give the information but he would see that M. Merlin's questions were answered in full in the next report.

Restrictions on Certain Imports and Exports.

M. Merlin said that on page 16, paragraph 43, it was stated that the export of Palestinian fruit to Egypt had suffered a reverse owing to a new Egyptian Customs tariff. What was the explanation of the new Egyptian duty on fruit ?

Mr. Young replied that Egypt was endeavouring to encourage Egyptian fruit-growing. The Palestine Administration had sent a mission to Egypt to make representations with regard to these particular duties, but without result.

M. Merlin also noted that an Order of July 22nd, 1930, had prohibited the import of olive oil (page 144, paragraph 10, of the report). The country principally hit by this Order was Syria. What were the motives for issuing the Order ? There was an understanding that neighbouring territories under mandate should show a certain consideration for one another.

Mr. Young replied that the object of the Order had been to protect the Palestine grower. Representations had, however, been made by the Syrian Administration, and the Order had been modified so far as Syria was concerned.

Commission appointed for the Purpose of scrutinising the Expenditure of the Territory and eventually to find Means to reduce It

Lord Lugard asked whether Sir Samuel O'Donnell's Committee had yet reported.

Mr. Young replied in the negative.

Effect on the Public Revenue of the Reduced Subscriptions to the Zionist Organisation.

M. Rappard said he understood that the subscriptions to the Zionist Organisation had been seriously affected by the economic crisis. Was the accredited representative in a position to say what the extent of the falling off in the subscriptions was ? He presumed that the whole balance of payments of the country had been affected thereby.

Mr. Young replied that M. Rappard would note from paragraph 26 on page 13 of the report that, in spite of the falling off in the subscriptions, the Customs revenue had been well maintained. The effect of the reduction in the subscriptions was, in fact, less than might have been expected.

Police Organisation.

M. Ruppel referred to the re-organisation of the police force.

It appeared from the report that a number of measures had been taken during the year under review. Both sections of the force, the British and the Palestinian, had been considerably reinforced. A purification had taken place by the dismissal of unfit policemen; the disposition of the force had been rearranged to protect the Jewish settlements. A defence scheme for those colonies, including sealed armouries, had been carried out. The expenditure for the police had been increased by 25 per cent.

He thought the Commission might conclude that there was no longer any inadequacy in the police force such as there had been before the disturbances in 1929 and that the force could now be relied upon in all circumstances. The Jewish community, however, appeared to think otherwise. He quoted from the memorandum submitted to the Mandates Commission by the Vaad Leumi that month (June 1931), in which it was contended: (1) that peace and protection were by no means secured; (2) that the police force still consisted mainly of Arabs; (3) that the sealed armouries had not been returned to the villages, but had been replaced by different armouries consisting of shot-guns in place of rifles; (4) that the Arabs had unlimited possibilities of securing arms; (5) that the feeling of insecurity among the Jewish community was general.

Dr. Drummond Shiels replied that the memorandum had only been received a short time previously. The British Government had forwarded it to the Mandates Commission, as it did not wish to keep anything back, but it had not been given time to reply to the charges contained in the document.

Mr. Young said there had been one deplorable incident, a murder near Haifa, but that, in general, he did not think there was any justification for the contention in the memorandum of the Vaad Leumi that the Jewish community was suffering from a sense of insecurity.

The murder in question was committed at night in circumstances which would not have been altered by any increased police force or any change in the armouries.

He thought he could say, as a result of his visits to a large number of Jewish colonies, that the Jewish colonists in general felt much more secure. The so-called security roads were a powerful factor in this increased sense of security.

The only remaining grievance of the Jewish colonists was the fact that they were provided with shot-guns (Greener guns) and not rifles. The Administration had considered whether rifles should be supplied, but, after taking expert advice, it had come to the conclusion that the Greener gun was the most suitable weapon for defensive purposes.

FOURTEENTH MEETING.

Held on Wednesday, June 17th, 1931, at 4 p.m.

Palestine: Examination of the Annual Report for 1930 (continuation).

Dr. Drummond Shiels, Mr. M. A. Young, Mr. O. G. R. Williams and Mr. R. V. Vernon came to the table of the Commission.

Protection of the Jewish Colonies.

M. Sakenobe observed that at the seventeenth session the accredited representative had told the Commission that there was a defence scheme for the protection of the Jewish colonies, in case of emergency, and had given a brief outline of that scheme; it was also mentioned in the report for 1930. He would be interested to have details and to know what part the Army was to play in the scheme.

Dr. Drummond Shiels replied that it was not possible to add very much to what had already been said. It was not usual to give full details of a defence scheme; the last time the matter was discussed, the main criticism had been that the Jewish colonies were left with inadequate means of defence. The present plan provided for the possibility of rapid access to each colony, for sealed armouries and for the installation of a telephone in each colony. Arrangements had also been made in connection with the location of the garrison and of the police, so that all contingencies were guarded against as far as possible. That, broadly, was the position.

M. Sakenobe observed that last year the Commission had heard that the Jewish colonies would be divided into groups, each with a protective force. He had hoped that further details might be given.

Mr. Young replied that it would be difficult to go into the details of the scheme for the defence of the various groups. The first line, apart from the armouries to which reference had been made, consisted of the police force, the disposition of which was intended to enable police to reach the colonies rapidly and in sufficient numbers. There were also included in the scheme both the battalions stationed in Palestine and the Trans-Jordan Frontier Force, so that provision was made for defence in the event of an attempted incursion across the Jordan into the Plain of Esdraelon.

Lord Lugard enquired, in connection with M. Sakenobe's question concerning the defence of the Jewish colonies, whether the Jews were fairly satisfied with the present position.

Mr. Young replied that his personal impression—from visits and discussion—was that, apart from the nature of the weapons provided, the Jews were actually better satisfied than would appear from the Vaad Leumi memorandum.

Arms Traffic.

M. Sakenobe referred to certain complaints made by the Jewish General Council concerning the arms traffic on the frontier. On page 6 of the memorandum of the Vaad Leumi the following passage occurred:

> "... the Arabs of Palestine have unlimited possibilities of securing arms of an effective type in large quantities and with great ease. Trans-Jordan on the one side and the South of Palestine on the other side, both areas under the jurisdiction of the British Mandatory, are territories in which there is an unrestricted traffic in arms, and there can be no possible check on the penetration of such arms from either of these territories to other parts of Palestine."

There was evidently some exaggeration in this statement, but there must be some truth in it. He enquired whether arms were registered in Palestine.

Mr. Young observed that the report for 1930 contained the answer to the question put last year on this subject. He said that in the greater part of Palestine arms had to be registered.

M. Sakenobe said that the Commission would be grateful if next year's report could contain a list of cases of the illicit handling of arms.

Dr. Drummond Shiels said that this would certainly be done.

Participation of the Palestine Government in the Expenses of the Trans-Jordan Frontier Force.

Lord Lugard referred to the cost of the Trans-Jordan forces—£250,000—of which Palestine shared a part. He enquired just what the Palestine proportion might be.

Mr. Young replied that the arrangement in force as from April 1st, 1930, was that the Palestine Government paid one-quarter of the recurrent cost of the Trans-Jordan Frontier Force and the whole cost of the capital works for that Force in Palestine. His Majesty's Government bore three-quarters of the recurrent cost and the whole of the capital cost in Trans-Jordan. The fact that the arrangement had come into force only on April 1st, 1930, would account for any discrepancy as compared with the figures shown on page 85 of the report.

Application of International Conventions.

M. Orts referred to the list of general and special Conventions to which Palestine was a party and enquired whether it was up to date. The Council had passed a resolution in 1925, asking to be informed of any circumstances that might have prevented the application of bilateral treaties to the territories under mandate. He enquired whether there had been any bilateral Convention between Great Britain and another Power that had not been extended to Palestine. The question was of importance, as the Council was dealing with the matter, not with particular reference to Palestine, but on general lines.

Mr. Vernon replied that the question of the application of bilateral Conventions to mandated territories had been exhaustively examined. The Mandatory had had to determine which Conventions could be applied to both Palestine and Trans-Jordan and which could be applied only to Palestine. The general principle followed by the Mandatory was to secure the adherence of Palestine to any bilateral Convention, if such a measure appeared of advantage to that country. In some cases the circumstances of the Convention might not permit of its application to Palestine. This statement applied to the British mandated territories in general, for example, to Tanganyika.

M. Ruppel observed that there was no mention in the list of Conventions to which Palestine was a party of the 1926 International Slavery Convention, although the report stated that Trans-Jordan was a party to that instrument.

Mr. Vernon said that he was practically sure that the Slavery Convention applied to Palestine. He was surprised to hear that it was not mentioned in the list. [1]

Incorporation of the Terms of the Mandate in the Legislation of Palestine.

M. Van Rees drew attention to the statement to be found on page 97 (paragraph 4) of the report under consideration referring to Appendix XVI of the previous report, and proceeded to quote the following passage from Appendix XVI:

> " In so far as the mandate is not incorporated into the law of Palestine by the Order-in-Council, its provisions have only the force of treaty obligations and cannot be enforced by the Courts."

It appeared, therefore, that suits in respect of the execution of the mandate could not be entertained by the Courts, by reason of the fact that the mandate did not constitute a part of the Palestine legislation. On the basis of this hypothesis M. Van Rees wondered how a person who considered that his interests had been injured by the application of one of the formal provisions of the mandate could bring his complaint before a competent court.

In 1930, this question had been raised by one of the members of the Commission at the seventeenth session (see Minutes of the session, page 101). It was stated in reply that all the necessary provisions of the mandate were already included in the Order-in-Council or the laws of Palestine and that if a case arose in which the Court found that the mandate required the Government to take some particular action but that no legislation existed by which the Government could be required to do so, then special legislation would have to be passed to cover the matter.

M. Van Rees did not think the explanation was satisfactory or correct. The Order-in-Council referred to the mandate but did not reproduce any of its terms, and he knew of no legal provision that gave the mandate the force of law. The matter was of importance in the interests of Jews and Arabs alike.

Dr. Drummond Shiels observed that M. Van Rees was speaking of a high legal matter. The question had no doubt already been examined, but as M. Van Rees gave it as his opinion that the mandate ought to be more fully incorporated in the Palestine Law the question would be re-examined.

Proportion of the Administrative Expenses of Palestine and Trans-Jordan supported by the Mandatory Power.

M. Rappard pointed out two contrasts which had struck him very specially. In Palestine there was a system of direct administration, and in Trans-Jordan a system of indirect administration.

---

[1] In a letter dated June 24th, 1931, Mr. Vernon, accredited representative of the mandatory Power, gave the following additional information on this subject:

> " Article 9 of the Convention provides that ' any High Contracting Party may declare that its acceptance . . . does not bind some or all of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage in respect of all or any provisions of the Convention . . . '. Such a declaration was made by His Majesty's Government only in respect of India and the Dominions, on whose behalf the Convention was signed separately. Consequently, the Convention applies to all the non-self-governing Colonies and Protectorates and to the mandated territories administered under the authority of His Majesty's Government in the United Kingdom. It therefore applies to Palestine, including Trans-Jordan."

On the other hand, Palestine cost Great Britain nothing, while Trans-Jordan received from Great Britain about one-third of the cost of administration. He would be interested to know why there was this contrast between the great generosity shown towards Trans-Jordan, which enjoyed a very large measure of self-government, and the strict economy in the relations with Palestine, which was under the direct rule of the Mandatory.

Mr. YOUNG replied that it was not quite the case that the administration of Palestine was costing His Majesty's Government nothing. That point had already been discussed. As regards Trans-Jordan, he agreed that the grants did appear high, but said that fuller material for a reply to the question would be available after the receipt of the report of the Financial Commission appointed for the purpose of scrutinising expenditure and possibly enabling those grants to be reduced.

Dr. Drummond SHIELS observed that the more sparsely populated a country was, the greater, proportionately, were the costs of administration.

M. RAPPARD agreed that that was the case for the same quality of administration, but pointed out that Palestine was much more closely administered than Trans-Jordan.

He understood (page 147, paragraph 17, of the report) that non-recoverable grants-in-aid had been made to the Palestine Government by His Majesty's Government to meet the cost of the British section of the Palestine gendamerie until its disbandment on March 31st, 1926; to meet a moiety of the cost of the Trans-Jordan Frontier Force in 1926-27 and one-sixth of the cost from April 1st, 1927, to March 31st, 1930, the latter proportion being regarded as the Trans-Jordan share of the cost of the Force. The rest, therefore, was paid by Palestine. There appeared also to be some obscurity in paragraph 18 on the same page of the report.

Mr. YOUNG remarked that, on a mere point of nomenclature, there was at present no gendamerie. He agreed that there was an omission in paragraph 18. The only grant-in-aid was for the Trans-Jordan Frontier Force. The Force was stationed partly in Trans-Jordan and partly in Palestine. Trans-Jordan had never paid anything, and the present position was that the grant-in-aid was paid to Palestine, and Palestine bore the cost of the Trans-Jordan part of the Force.

PUBLIC FINANCE.

M. RAPPARD understood that Palestine, irrespective of Trans-Jordan, was paying its way.

Dr. Drummond SHIELS believed it was generally agreed that this had been the case up to last year. He was not sure that it was so since then.

M. RAPPARD, referring to paragraph 28 on page 152 of the report, noted that during the year under review the Currency Board had paid £P20,000 " in aid of the revenue of Palestine ". Was not this sum earned in Palestine on the amount of uncovered notes in circulation ? He would be interested to have some information on that point.

Mr. VERNON replied that the Palestine Currency Board existed for purposes of control. At the end of the year it considered how much balance could safely be transferred to Palestine, and the expression " in aid of the revenue of Palestine " implied no suggestion of charity.

He explained, in answer to a further question from M. Rappard, that the item on page 151 of the report: " Payment on application for £100,000 Treasury bonds, etc., Cost price, £10,000 " simply represented a part payment " on application ", as described.

LABOUR.

Mr. WEAVER thought the Commission would wish him to express its satisfaction at the much fuller information contained in the 1930 report as compared with previous years.

The question of labour statistics had been already raised by M. Rappard, and the accredited representative had stated that machinery for obtaining more accurate statistics was being devised. Mr. Weaver asked whether, in devising this machinery, it would be possible to distinguish unemployed persons who were normally employed and were seeking regular employment from those who were usually working on their own account and who were seeking casual employment.

Mr. YOUNG replied that that point was being taken into consideration and, as far as possible, Mr. Weaver's request would be met.

Mr. WEAVER called attention to the table on page 46 of the annual report which showed that the unemployment among Arabs had increased from 5,500 in November to 12,000 in December 1930, and asked whether any explanation of this increase could be given.

Mr. YOUNG replied that the higher figure in December was the result of a more scientific method of computing statistics. The footnote to this table, which stated that these figures should be accepted with reserve, applied in particular to the figures previous to December.

Mr. WEAVER called attention to a remark in Dr. Drummond Shiels' opening speech to the effect that public works were being speeded up in order to provide unemployment relief. He asked to what extent employment had been provided by this method.

Mr. YOUNG replied that this unemployment relief usually took the form of road construction, which was being developed as far as possible.

Mr. WEAVER referred to a statement that labourers had been engaged in Syria to work on the construction of a road from Kfar Gileadi to Metulla.

Mr. YOUNG had not heard of this. Metulla was, indeed, on the Syrian frontier, but it would be contrary to the policy of the Palestine Administration to bring in workers from Syria.

Mr. WEAVER drew attention to the statement in the Prime Minister's letter to Dr. Weizmann of February 13th, 1931, paragraph 16, to the effect that, with regard to public and municipal works financed out of public funds, the claim of Jewish labour to a due share of the employment available, taking into account Jewish contributions to public revenue, should be taken into consideration. This raised the question of the proportion between Jewish and Arab labour. He noted on page 14 of the annual report, paragraph 35, that 988 Arab and 183 Jewish workers were engaged on the Haifa Harbour works. This proportion could hardly be based on Jewish contributions to public revenue. He asked what was being done in this respect.

Mr. YOUNG pointed out that the figures in the report related to a period before the letter to Dr. Weizmann was written, and that the Administration was now naturally taking steps to give to the Prime Minister's words. He added that there was no definite undertaking that Jewish labour should be in exact proportion to Jewish contributions to public revenue. Moreover, this proportion would be difficult to determine.

Mr. WEAVER asked whether the result of this policy would be to increase the number of Jewish workers employed.

Mr. YOUNG answered that, if Jewish employment were in exact proportion to Jewish contributions, this would no doubt result in an increase of Jewish labour.

Mr. WEAVER referred to a paragraph on page 14 of the annual report to the effect that consideration was being given to the possibility of applying the piece-work system to selected Arabs engaged on the Haifa Harbour works. He presumed this was intended to have the progressive effect of equalising Jewish and Arab wages.

Mr. YOUNG replied in the affirmative.

Mr. WEAVER noted the statement in this connection that precise statistics of earnings and output were worked out. He hoped these figures would be included in the next report.

Mr. YOUNG replied that this would be done.

Mr. WEAVER asked whether, in contracting for public works, preference was given to the lowest tenders, and whether this did not result in lower wages.

Mr. YOUNG replied that contracts were given on this basis, provided other conditions were equal.

Mr. WEAVER asked whether consideration was being given to the insertion of a fair-wage clause in these contracts.

Mr. YOUNG said that this matter was already under consideration.

Mr. WEAVER drew attention to the Convention between the High Commissioner and the Iraq Petroleum Co., Ltd., regarding the construction of the pipe-line. Article XI, which dealt with labour, contained no provisions whatever for fair rates of wages and other conditions of labour; in fact, it only dealt with the supply of labour.

Dr. Drummond SHIELS answered that this was an unfortunate omission which had only been noticed after the Convention was signed. Steps were now being taken to have included in the Convention, if it were still possible, some such clause.

Mr. WEAVER drew attention to the statement on page 105 of the annual report that it was proposed to set up machinery for conciliation and arbitration in labour disputes and to deal with certain other questions relating to labour. He also noted on page 18 of the report that the revision of labour legislation, with particular reference to workmen's compensation, would shortly be undertaken by an official committee. He asked whether this committee proposed to confine itself to workmen's compensation or would deal with other questions. He enquired whether the committee was already working.

Mr. YOUNG replied that the committee would deal with all questions and not only with workmen's compensation. When he left Palestine, the committee had not begun its work.

Mr. WEAVER noted from the report that there had been considerable growth in the trade unions. He hoped further information on this subject would be included in the next report. He asked whether the registration of trade unions was being taken into account.

Mr. YOUNG replied that at present trade unions were not registered under special legislation, but under the general Ottoman law of societies.

Mr. WEAVER asked whether any action was contemplated in this respect.

Mr. YOUNG promised to bring the matter before the committee to which reference had just been made.

Dr. Drummond SHIELS remarked that the whole question of labour legislation in British colonies and mandated territories was being taken up by the Home Government. When general principles had been established, they would be gradually incorporated in the legislation of all the territories in question. At the same time, independent examination of this class of legislation in the territories themselves was going on, and in Palestine, as had been stated, the matter was being examined.

Mr. WEAVER referred to the statement on page 103 of the annual report that the policy of the Government was to confine interference in private enterprise, as far as possible, within the limits imposed by international obligations and by the interests of public health and order. This statement was not very clear. Everything depended on whether the expression "international obligations" was interpreted in a wider or narrower sense. For instance, did it include international labour conventions ?

Mr. YOUNG replied that it certainly included all international labour conventions which were already in force or which might be concluded in the future.

Dr. Drummond SHIELS hoped that this statement would be interpreted in the most generous sense, and he entirely agreed with what Mr. Weaver had said.

Lord LUGARD drew attention to the statement on page 101 of the report to the effect that there was a noticeable movement towards organisation among Arab workers. He asked whether any appreciable progress had been made towards combinations of Jews and Arabs.

Mr. YOUNG replied that, so far as he was aware, there had been no noticeable progress.

LIQUOR TRAFFIC.

Count DE PENHA GARCIA referred to an article published recently in the *Manchester Guardian* recording a meeting in London of a society for combating the liquor traffic. At this meeting it had been stated that the consumption of liquor in Palestine was becoming a danger, and a resolution had been addressed to the British Government as responsible for the mandated territory. He realised that such societies frequently exaggerated, but the figures contained in the report nevertheless gave the impression that the consumption of intoxicating liquors was increasing considerably and that it was necessary to watch the development of this traffic. He noticed also on page 168 of the annual report that receipts from excise duties on intoxicating liquors had increased. He also saw that there was a 30 per cent increase in receipts from liquor licences in Transjordan. He considered this figure very high.

He asked the accredited representative what substances were treated in the distilleries.

Mr. YOUNG said he could not give definite information. In Trans-Jordan he thought the distilleries probably produced arak from the palm. He could not give any information for Palestine, but would note the matter and include the information in the next report.

Count DE PENHA GARCIA asked that in future the alcohol content of the spirits should be mentioned.

There was no information regarding the number of licences for the sale of intoxicating liquors in Palestine.

He asked how the production figures contained on page 169 of the report were controlled.

Mr. YOUNG replied that these figures were checked by the Department of Customs and Excise.

Count DE PENHA GARCIA asked whether the distilleries were obliged to make declarations.

Mr. YOUNG replied in the affirmative, and said their figures were checked by Government inspectors.

Count DE PENHA GARCIA asked who were the principal consumers, Arabs or Jews. He pointed out that the Moslems were, by their religion, not allowed to consume alcohol.

Mr. YOUNG remarked that the Arabs were not all Moslems.

Count DE PENHA GARCIA said the reason for his question was that he wished to ascertain the consumption per head. If only a part of the population consumed alcohol, figures might be excessive which would otherwise be normal.

Mr. YOUNG said it was difficult to obtain statistics regarding the consumers of alcohol. He agreed that some indication might be obtained from the number of Moslems in the country. He considered that the best test was the prevalence or non-prevalence of drunkenness in Palestine. In fact, drunkenness was not prevalent.

Count DE PENHA GARCIA remarked that the statistics regarding convictions did not include cases of drunkenness. He supposed that persons arrested for drunkenness would usually be released on the following day.

Mr. YOUNG agreed. He thought that more reliable indications could be obtained from observing the habits of the people than from judicial statistics.

Count DE PENHA GARCIA asked whether Mr. Young did not think the Government should take steps with regard to the consumption of alcohol.

Mr. YOUNG thought no special measures were necessary beyond watching the position.

Count DE PENHA GARCIA noted that the production of wine had doubled in the last two years. As there had been no corresponding increase in the export, he concluded that twice as much was being drunk in Palestine.

Mr. YOUNG suggested that the stocks might have increased.

Count DE PENHA GARCIA asked whether the cultivation of the vine was increasing.

Mr. YOUNG thought not, but that there was a tendency to replace the vine by other forms of agriculture.

Count DE PENHA GARCIA noted the statement on page 168 of the report that there were fifteen establishments for the manufacture of wines. He asked whether land-owners produced wine in addition to these establishments.

Mr. YOUNG replied that the largest establishments were co-operative, so that the cultivators who were members of the co-operative societies were interested in the production.

Count DE PENHA GARCIA asked whether the co-operative societies bought the grapes from the cultivators and thus owned the wine, or whether they merely manufactured the wine for account of the owners.

Mr. YOUNG thought that the co-operative societies bought the grapes, but that they included the growers among their members.

Count DE PENHA GARCIA noted that there were only fifteen establishments producing over 40,000 hectolitres. He asked whether the growers had any control over the manner of producing the wine.

Mr. YOUNG thought that, as the growers were members of the co-operative societies, they were in many cases interested in the manufacture of wine.

Count DE PENHA GARCIA asked whether the co-operative societies had large cellars for storing wines or whether they sold them to merchants.

Mr. YOUNG said he knew of two very large cellars owned by co-operative societies.

Count DE PENHA GARCIA asked whether there were any other large dealers purchasing wine from the co-operative societies.

Mr. YOUNG said that he did not know of any large cellars owned by non-producing dealers.

Count DE PENHA GARCIA presumed that in that case the wine remained in the possession of the producers.

Mr. YOUNG replied in the affirmative.

DRUG TRAFFIC.

Count DE PENHA GARCIA thanked the mandatory Power for the interesting information contained on page 114 of the report. This showed that 202 persons had been convicted, and that there was an illicit traffic in drugs with Egypt. He hoped that the Administration would continue to watch this traffic and would give information each year.

Lord LUGARD noted the statement on page 114 of the report "the bulk of the hashish smuggled into Palestine comes from Syria" and that a large percentage of it was destined for Egypt. He asked whether the Syrian authorities were co-operating for the suppression of this traffic.

Mr. YOUNG replied that the Administration was working in co-operation with both Syria and Egypt.

Lord LUGARD asked whether the persons convicted for offences connected with the drug traffic were mostly Jews or Arabs.

Mr. YOUNG said he thought they were mostly Arabs.

M. VAN REES referred to a newspaper article to the effect that Tel Aviv was an important centre of the drug traffic in the East. The author of the article asked why nothing had been said of a vessel seized in Egypt, the owner of which was a Zionist of Tel Aviv. The article stated that the Tel Aviv police were independent, and consisted exclusively of Jews. It went on to say that two ships belonging to the same owner at Tel Aviv were engaged in the traffic in both arms and drugs. It added that the League of Nations would be embarrassed if it were asked by whom civil and military aeroplanes were examined when landing in Eastern countries under foreign administration. What Customs or police authority, it asked, would be willing to examine a French aeroplane landing at Tripoli, or an English aeroplane landing at Ramieh ?

M. Van Rees asked if there was any truth in these allegations.

Mr. YOUNG replied that there was no foundation whatever for the statements made in this article. There was no reason to suppose that Tel Aviv was of any importance for the drug traffic. In the last seven years only three seizures of small quantities had taken place there. No vessel belonging to a Jew of Tel Aviv had been seized or suspected. Perhaps the newspaper in question had concluded that Palestinian Jews were engaged in this traffic on account of a recent case in Egypt in which Jews were concerned. Those Jews, however, so far as he was aware, had no connection with Palestine.

With regard to aeroplanes, landing was prohibited except at the Gaza aerodrome, where strict Customs regulations were applied. In special cases landings were allowed at Ramieh, in which case all the formalities were enforced. There were also arrangements for Customs formalities in the case of forced landings at other landing grounds.

Lord LUGARD mentioned, for the information of the Colonial Secretary, that, in the list of subjects kept by the Mandates Commission, " Liquor " was included under Head XVIII, Drugs, etc. It was not so included in the report.

Mr. YOUNG noted the information for subsequent reports.

EDUCATION.

The CHAIRMAN stated that, in the absence of Mlle. Dannevig, he had handed her written questions to the accredited representative. It was unnecessary to give an oral reply immediately. Dr. Drummond Shiels could, if he preferred, reply in writing.

Dr. Drummond SHIELS promised to reply to the questions in writing.

Lord LUGARD understood that the Jews had complained that the funds granted for Jewish schools were insufficient. He observed that, according to the figures on pages 165-6, the Jews were nearly 20 per cent of the population, and they apparently received about 15 per cent of the funds voted for education (page 116).

Mr. YOUNG replied that it was true that the Jewish Agency was not satisfied with the grant and claimed an increase. The Education Department had made proposals to the Jewish Agency regarding the reform of the school board. Until that reform took place, it did not feel justified in allotting a larger proportion to the Jewish schools.

Lord LUGARD asked whether the teachers paid by the Jewish Agency received the same scale of salaries as those in the Government schools.

Mr. YOUNG replied that he thought these scales of salaries were related to the scales for Government teachers, but he could not say whether they were identical.

Lord LUGARD had noted a remark in the report on Iraq to the effect that discipline in the western sense was alien to the ideas of the East. He asked if this remark could be applied to Palestine.

Mr. YOUNG replied that, as far as he had had an opportunity of observing the schools, the pupils were well disciplined.

PUBLIC HEALTH.

M. RUPPEL stated that the Mandates Commission, in its report to the Council on the work of the seventeenth session, pointed out that it desired information as to whether the Administration could not be voted a larger sum for public health, since it appeared that the population of certain areas had recently been without adequate hospital facilities.

In 1930 the amount spent on health services had been slightly increased—that was to say, from £P.101,800 to £P.105,500, but it did not appear that activity had been considerably intensified, and it was freely admitted in the report that, in the northern district, particularly in Haifa and Eastern Galilee, the hospital accommodation for both general and infectious cases fell short of requirements. The Administration promised to consider carefully the question of providing additional hospital facilities in this part of the territory in the light of the general financial situation. Sir J. Hope Simpson, on page 29 of his report, noted the concentration of medical assistance in the towns and the fact that private medical practice did not extend to the Arab villages.

On page 136 of the annual report details were given of the general policy hitherto followed by the Health Department. The Health Department concentrated on general sanitation and the prevention of disease. As regards hospital accommodation and facilities for medical treatment of the population, it limited its activity to certain specified purposes (infectious diseases, insane persons, persons in the service of the Administration and the very poor) and endeavoured to meet the needs of the general population only where no provision, or inadequate provision, was made by voluntary organisations.

The principal voluntary organisation was that of the Jewish community. A full statement of the working of its health institutions was contained in the annual report of the Jewish Agency. Its provision for public health work was put in round figures at £P.200,000, or nearly twice as much as the Government expenditure. It should be noted that these health institutions were open for Arabs as well as for Jews.

The question arose whether the present state of affairs, in which the Administration largely relied upon Jewish work, would continue for an indefinite time. In this connection, M. Ruppel quoted the following passage from the Hope Simpson report, page 27:

> " A time will surely come when the services of the Government will be compelled to extend their radius of action so as to include Jewish settlements as well as Arab villages."

Last year the Jewish Agency made this question the subject of a special memorandum to the Administration. It was of the opinion that about £P.60,000 of the total expenditure of £P.200,000 was devoted to the maintenance of municipal and public health services which were normally undertaken in other countries by the Government or local authorities. It therefore asked for direct Government participation in the upkeep of its services. The additional subvention was estimated at £P.14,400 a year. The proposal was not accepted by the Administration on account of the financial position.

M. Ruppel asked whether the accredited representative could give some explanations as to the policy which the Administration intended to pursue in the near future regarding the extension of its health services or the increase of subventions granted to the Jewish and other private organisations.

Mr. Young replied that the health work done by Jews for Jews in Palestine was most impressive. The standard of this work was so high that the Palestine Government could not imitate it for the rest of the country. A calculation had been made of the funds required to carry out health work and the provision of hospitals on this scale in the entire country, and it had been found that the organisation would swallow up practically the whole revenue of Palestine. The Jewish organisations had found that, owing to the shrinkage of their funds, it was difficult to maintain the present standard. They had therefore asked the Government for assistance. The Government had replied that it was willing to assist, where possible, but that the assistance which it could give was strictly limited by its finances. It attached great importance to health work and desired to take over existing hospitals and to provide new hospitals where required. The Health Department was very efficient and had achieved remarkable results with the limited funds at its disposal. The Government hoped to provide more funds in the future.

M. Ruppel took note of the last statement and expressed the hope that the financial situation would allow, in the near future, of progress in this direction. He further suggested that the next report might give details of the expenditure for public health in the same manner as was done for education in the report under review (page 122).

Mr. Young said he would make a note of this.

M. Ruppel noted the statement on page 135 of the annual report that there were 653 private doctors. The Hope Simpson report referred to complaints made by Arabs as to the enormous influx of Jewish doctors into the country which was said to have deprived a number of Arab doctors of their practices. He asked for information as to the number of Arab and Jewish doctors respectively.

M. Young said he would note this question.

M. Ruppel drew attention to the information given on page 136 of the report regarding private hospitals and other charitable institutions. He asked that the next report should contain a full list of these institutions, stating the nationality, the beds available, the number of

consultations given and other information, in the same manner as was reported by the French Government in respect of Syria and the Lebanon.

Mr. YOUNG noted this request.

DEMOGRAPHIC STATISTICS.

M. RAPPARD drew attention to the table of vital statistics on page 165 of the annual report, from which it appeared that infantile mortality was greater in the towns than in the country. It would be remarkable if this were the case, and he supposed the explanation was that it was easier to obtain statistics in the towns.

With regard to the immigration statistics on page 166 he noted that the immigration of non-Jews was increasing. This was a somewhat surprising fact and he asked what exactly was understood by the term " immigrant ". Did it include pilgrims and constables ?

Mr. YOUNG replied that all persons who were not travellers were classified as immigrants. Travellers obtained visas for three months, which period could be extended. Persons who arrived with the intention of staying permanently were regarded as immigrants. The increase was not very great, and he thought that it might be accounted for by constables and other officials who would be classified as immigrants. He referred to the number of constables who were included in the number of immigrants as noted on page 36 of the report.

Trans-Jordan

DELIMITATION OF THE FRONTIER BETWEEN TRANS-JORDAN AND NEJD.

M. ORTS asked whether the southern frontier of Trans-Jordan, *i.e.*, the common frontier with Nejd had been finally fixed.

Mr. WILLIAMS replied that a part of the frontier had been defined in an agreement with the Nejd Government but had perhaps not been definitely delimited on the spot. One portion had remained undefined.

M. ORTS asked if that was the portion touching on the Gulf of Aqaba.

Mr. WILLIAMS replied in the affirmative.

M. ORTS asked if there was no danger of the mandated territory losing Aqaba which was the only access of Trans-Jordan to the sea. All maps placed Aqaba in Transjordan and he wished to know if this place had been acquired by Trans-Jordan without protest or if there was any dispute between His Majesty's Government and the Nejd Government on this matter.

Mr. WILLIAMS replied that there was no active dispute, but the point had never been definitely decided with the Nejd Government.

M. ORTS asked how it was that all the official maps showed Aqaba in Trans-Jordan if there was no agreement on the subject.

Mr. WILLIAMS said that, as far as he knew, the frontier was recognised informally when His Majesty's Government accepted the mandate but that the Government of Hejaz and Nejd had never formally accepted the position. He read the following extract from the Handbook of Palestine and Trans-Jordan published in 1930:

> " The southern boundary between Trans-Jordan and the Hejaz is not the subject of any formal agreement; but it is stated in a note dated May 19th, 1927, from Sir Gilbert Clayton to the King of the Hejaz and Nejd (published in Cmd. 2951) that His Majesty's Government regard this frontier as being defined as follows:
>
> " The frontier between the Hejaz and Trans-Jordan starts from the intersection of meridian 38° E. and parallel 29° 35' N., which marks the termination of the frontier between Nejd and Trans-Jordan, and proceeds in a straight line to a point on the Hejaz Railway two miles south of Mudawwara. From this point it proceeds in a straight line to a point on the Gulf of Aqaba two miles south of the town of Aqaba. "

DISSOLUTION OF THE TRANS-JORDAN LEGISLATIVE COUNCIL: EXTENT OF THE INTERVENTION OF THE MANDATORY POWER IN LEGISLATIVE AND ADMINISTRATIVE MATTERS.

The CHAIRMAN observed that the newspapers had announced in November 1930 (*Oriente Moderno*, December 1930, page 631) that there had been a debate in the Trans-Jordan Legislative Council on the question of the legality of international obligations contracted by the Emir. That debate had probably been instituted by members who were opposed to the Agreement of February 20th, 1928, between the mandatory Power and the Emir Abdullah.

Again, the *Falastin* of December 12th, 1930 (*Oriente Moderno*, January 1931, page 29) had announced that certain members of the Legislative Council had given notice of a motion for the institution of responsible government.

Further, it had been announced in March 1931 that the Emir Abdullah had promulgated a decree on February 9th dissolving the Legislative Council, in consequence of the latter's refusal to approve the budget submitted by the Government. That measure appeared to have been followed by the resignation, on February 21st, of Hasan Kalid Abdul Huda, President of the Council. The Emir was reported to have invited Sheik Abdullah es Sarrag, former Vice-President of the Hejaz Council, to form a new Cabinet.

The Chairman enquired whether the accredited representative could offer any comment on these various points and whether he could state to what extent the agents of the mandatory Power intervened in the framing of the legislative texts of Trans-Jordan and in the actual administration of the country.

Mr. YOUNG replied that the Agreement with His Majesty's Government had been definitely passed by the Legislative Council in 1929. The facts as regards the action of the Emir in February last in dissolving the Legislative Council were as stated. The extent to which the representatives of the mandatory Power intervened in the preparation of legislative texts in Trans-Jordan was best illustrated by the statement that the Legal Adviser was a British official and that Trans-Jordan enjoyed the benefit of his advice and co-operation.

The CHAIRMAN understood that the Emir had dissolved the Council in consequence of the latter's refusal to pass the budget. He enquired whether that was really so.

Mr. YOUNG replied that he had every reason to suppose that the reason given had been the real reason determining His Highness's decision.

SLAVERY.

Lord LUGARD noted the statement on page 197 of the report that Trans-Jordan was a party to the International Slavery Convention of 1926, and that it might be assumed for all intents and purposes that slavery was non-existent in Trans-Jordan. He would be glad to know the exact position, and whether the legal status of slavery had actually been abolished. He noted further, that, according to the report, a case had occurred in the past in which a slave girl was purchased for marriage, a marriage contract being made at the time of the sale. He understood that, according to Mohammedan law, marriage with a slave was forbidden. In the case mentioned, the girl must have been freed before marriage. She could not, as a slave, be purchased for marriage.

Mr. YOUNG replied that, under the Abolition of Slavery Law of 1929, the status of slavery was definitely abolished. It could be affirmed that there was no slavery in the territory. Further, under the new law, contracts such as Lord Lugard had mentioned were void.

PROTECTION OF TAX-COLLECTORS BY THE POLICE.

Lord LUGARD noted the statement in the report to the effect that tax-collectors had been deprived of the " effective aid of police escorts ". He would be interested to know what that expression implied.

Mr. YOUNG said that the effective aid in question might be regarded as moral rather than physical.

STAFF OF THE EDUCATION DEPARTMENT.

Lord LUGARD enquired whether there was any British staff in the Education Department.

Mr. YOUNG said that he thought not.

MANUFACTURE OF ALCOHOL.

Lord LUGARD, referring to a statement on page 205 of the report, enquired how there came to be two licensed alcohol factories in Trans-Jordan, which was a Mohammedan country.

Mr. YOUNG replied that the reason might be that Trans-Jordan was not an exclusively Mohammedan country.

CLOSE OF THE HEARING.

The CHAIRMAN noted that the Commission had now concluded its discussion of the annual report. He was very glad that Dr. Drummond Shiels had been able to stay until the end of the discussion, and thanked also his assistants for the help they had given the Commission. He hoped

that their optimism and assurance of tranquillity in the country augured well for the future happiness of the population.

Dr. Drummond SHIELS thanked the Chairman and the Commission for their courtesy and consideration. He echoed the hope that they might now look forward to a period of tranquillity and progress in Palestine.

The accredited representatives withdrew.

Iraq: Procedure to be followed in the Examination of the Special Report on the Progress of Iraq during the period 1920-1931.

The CHAIRMAN called attention to the special character of the Iraq report which, on this occasion, took the form of replies to questions contained in the Commission's last report to the Council regarding the degree of maturity attained by the mandated territory.

In submitting its report on Iraq to the Mandates Commission, the British Government intended to give the latter the possibility of pointing out any gaps in its arguments justifying its claim that Iraq was able to stand alone, so that these gaps might be filled in before the autumn session.

He therefore thought that the present task of the Commission was not to examine the special report from the point of view of the working of various branches of the administration or from that of the British Government's execution of its mandatory obligations, but rather to prepare to give an opinion on the entire question of the degree of maturity attained by Iraq.

The British Government had not appointed accredited representatives to reply to detailed questions of administration, but rather to supply supplementary information and to record any requests made by the Commission for further details which they were unable to supply immediately.

He therefore proposed that, before the accredited representatives were invited to attend, some time should be devoted to an examination of the special report. It would be possible to go through it rapidly, and each member might state what questions he considered should be put to the accredited representatives during the discussion.

The Chairman's proposal was adopted.

FIFTEENTH MEETING

Held on Thursday, June 18th, 1931, at 11 a.m.

General Conditions which must be fulfilled before the Mandate Regime can be brought to an End in Respect of a Country placed under that Regime *(continuation).*

TRANSLATION OF M. VAN REES' NOTE (document C.P.M.1183).

Lord LUGARD put forward a special request that, in view of the importance of M. Van Rees' note (contribution to the examination of the above question), the document should be translated into English.

M. CATASTINI stated that the document had not been translated into English simply because the Mandates Section was obliged to fall in with the Secretariat's policy of strict economy. In view of Lord Lugard's special request, a translation would be made.

Iraq: Procedure to be followed in the Examination of the Special Report on the Progress of Iraq during the period 1920-1931 *(continuation).*

The CHAIRMAN stated that the Commission must decide upon the course to be pursued in its discussion of the special report on Iraq. He recalled that, in this particular case, the Commission need not embark upon a consideration of the report from the standpoint of the execution, by the British Government, of its mandatory obligations, but was rather called upon to form a general opinion on the degree of maturity attained by Iraq.

M. VAN REES emphasised that the Commission must express an opinion on the degree of political maturity attained in the territory. It need not concern itself with the question of the ultimate entry of Iraq into the League.

Count DE PENHA GARCIA considered that, in view of the special nature of the report submitted by the mandatory Power, the Commission should examine it solely from the point of view of the termination of the mandate. The Commission must consider whether the report contained sufficient particulars to enable it in due time to take a decision on the question of principle—namely, the degree of political maturity attained by Iraq. This was the moment to ask questions to this end, for the replies could be included in the report to be submitted in November.

M. CATASTINI thought it useful to draw attention to the two last paragraphs of the general observations on Iraq drawn up by the Commission at its nineteenth session (Minutes of the session, page 207). He considered that the Commission need not, at any rate at present, express any view upon the degreee of political maturity attained by Iraq, but must simply consider whether the information at its disposal was sufficient to enable it later, when it was required to do so, to form an opinion on the degree of political maturity of the territory.

M. VAN REES could not agree. The question of Iraq's entry into the League of Nations had been pending for a long time. The mandatory Power had submitted it to the Council, thereupon the Mandates Commission had intervened, and it had been at the Commission's request that the mandatory Power had agreed to supply information making it possible to determine whether or no Iraq reached the necessary degree of political maturity. The Commission, with the special report before it, must take a decision on this point. It could not confine itself to stating that the report was perfect, or, if that were necessary, that it contained such-and-such omissions which called for additional information. The Council of the League, and above all, Mr. Henderson, would undoubtedly expect something more, if the Commission said it was satisfied with the information given. In that case, it would only be logical to draw from this declaration the conclusion which was indicated.

M. RAPPARD thought that the Commission might conclude, either that it was time that Iraq became independent, or that it was obvious from the report that Iraq was not capable of self-government, or else, more likely still, that supplementary information was required and must be asked of the accredited representative.

M. VAN REES thought it possible that the accredited representative being the High Commissioner himself, accompanied by the principal members of his staff, would be able verbally to remedy any defects. Thus the Commission would be called upon to take a decision on the main question without delay.

Lord LUGARD pointed out that one of the items on the agenda of the Commission's present session was the examination of the question of the general conditions required for the termination of the mandatory regime in a country placed under that regime. It was difficult to examine Iraq's case before discussing and determining those general conditions. The discussion of the general conditions which would justify the withdrawal of a mandate should precede the decision on the particular case of Iraq.

M. RAPPARD considered that the possibility envisaged by M. Van Rees was highly unlikely. It would be difficult for the accredited representative there and then to dispel all the fears entertained by the different members of the Commission. But even if the accredited representative's explanations met all the objections raised, the Commission should not now present its final conclusions. It could, however, report to the Council that it was ready to give an opinion on the matter whenever required. He considered this a wise procedure. In any event, Lord Lugard's very rational remark must be borne in mind. Before taking a decision in a special case, the general conditions required for the termination of a mandate must first be established by the Commission and afterwards approved by the Council.

The CHAIRMAN quoted the following passage from Mr. Henderson's statement made at the sixty-second session of the Council (fifth meeting):

> " With regard to the Mandates Commission's request to be furnished with fuller information concerning the degree of political maturity attained by Iraq, he could have wished that the Commission had specified with somewhat greater precision the actual points upon which fuller information was required. The British Government would, however, at once take steps to prepare a comprehensive report containing a review of the progress made in Iraq under the mandatory regime, a general exposé of the existing situation, and all the information which it considered likely that the Commission would wish to possess. In order, however, to assist the Mandates Commission to submit definite views on the subject to the Council after its session in November, his Government suggested that the report in question should be a special one which could be submitted in time for consideration by the Commission at its June session. The special report would not, of course, replace the annual report on Iraq for the year 1930 which would be submitted as usual for the consideration of the Commission at its November session.
>
> " The procedure he had suggested would have the advantage that any deficiencies in the special report to which the Commission might draw attention in June could be remedied at its November session, either by the presentation of a supplementary report or by the oral evidence of the accredited representative. As soon as it was informed that this procedure would

be agreeable to the Permanent Mandates Commission, the British Government would proceed to the preparation of the special report. "

He believed that all the members of the Commission were agreed that an immediate decision was not required, but that they must consider whether the report supplied an adequate basis for a final decision at the November session.

M. MERLIN agreed. The Commission would not be required to estimate until November whether or no the mandatory Power could lay aside its responsibility.

Count DE PENHA GARCIA drew special attention to the close interdependence, in the case of Iraq, of the question of its admission to the League of Nations, for which provision was made in the Treaty, with the question of the termination of the mandate. The Council had quite logically asked for an opinion on the question whether Iraq fulfilledthe necessary conditions for such termination. Only after receiving a reply to this first question could the Council consider the problem of Iraq's admission to the League, with which the Mandates Commission had nothing to do.

M. RAPPARD considered that, from the practical point of view, it would be well to examine the report, chapter by chapter, the Commission reserving the right, after hearing the accredited representative, to hold a private meeting during which it could decide on fresh questions to be submitted to him.

He agreed with Lord Lugard that it was essential to examine the general conditions required for the termination of a mandate in order to know the lines which the discussion on a particular case must follow. It would be much to be regretted if, after the accredited representative had left Geneva, the Commission were to discover that it had omitted to ask for information on certain important points.

Count DE PENHA GARCIA thought that this would in fact be the best procedure, a preliminary discussion between the members of the Commission not being necessary. Each member would ask questions which, from his personal point of view, would be calculated to throw light on the subject. The general observations would emerge from the usual discussion which would take place after the examination of the report.

Lord LUGARD maintained his view that it was better to consider the general question of the conditions required for the termination of a mandate before embarking on the question of Iraq. It was, however, impracticable to suppose that the Commission could conclude its discussion on the general question at a single meeting, and it would not be possible to ask the accredited representative and those accompanying him to remain at Geneva until the end of the discussion, which might last some time.

M. ORTS wished to draw the Commission's attention to what was, in his view, the principal task before it. The mandatory Power, in its introduction to the special report (pages 10 and 11), explained the aim which it had had in view and gave the results of its work in Iraq. Its aim had been to set up, " within fixed frontiers, a self-governing State, enjoying friendly relations with neighbouring States and equipped with stable legislative, judicial and administrative systems, and all the working machinery of a civilised Government ". The report indicated that this result had been fully attained, which enabled the mandatory Power to say that Iraq could now dispense with the assistance and advice of the Mandatory and be admitted into the League.

Nevertheless, it might be asked whether the criterium accepted by the Mandatory was absolutely conclusive. Undoubtedly, Iraq now gave the appearance of a constitutional monarchy, with a Cabinet responsible to a Parliament composed of two Chambers. In its Constitution were embodied all the principles which were at the basis of the public law of the modern State. Was this sufficient to justify the conclusion that Iraq was ready to govern itself as a civilised country ? The façade seemed to be good, but it was necessary to be sure that the foundations were solid and that the edifice was not kept standing solely by reason of the support given by the mandatory Power. Good institutions were not everything: in order that they might function, they must be animated by a public spirit.

It was already a surprising achievement to have created all the machinery of the political and administrative organisation of a modern State, none of which had existed barely ten years ago. Who would dare to claim that the political education of this people, who for centuries had remained completely separated from the general trend of ideas and who had been mostly nomads, had followed, even at a distance, the development of the organisation of this new State ?

This question became of the utmost importance in connection with the future of the minorities, What would be the fate of these racial and religious minorities when the departure of the Mandatory would give the Government, composed of a Moslem majority, a free hand ? Would the Government carry out that policy of liberty of conscience and religion which was inscribed in the Iraq Constitution, and also respect for minorities ?

The Permanent Mandates Commission had received petitions from Kurds and previously that of the Bahais. The petition from Captain Rassam, for which M. Orts was Rapporteur, was accompanied by those from qualified representatives of the Assyrians, the Chaldeans and the Yezidis. All these documents expressed the same deep fear for the future felt by the minorities of various origins and religions, and the very fact that this fear was unanimous made it impossible to conclude that it was unfounded. These people were living in close touch with the Moslem majority and the representatives of the Iraq Government. They demanded guarantees for their existence from the moment when the British authority would be withdrawn. Would they expose

themselves to the risks which such an attitude of mistrust involved if they had not the very clear feeling that a grave danger threatened them ?

It was important that the Commission should be reassured as to the future of these minorities, that it should receive from the Mandatory, which alone could give it, the formal assurance that, in this country, which only a few years ago was not considered to be capable of governing itself, there had been such a change in spirit that one of the reasons for which it had been put under a guardian had ceased to exist.

If the Commission acquiesced in the discontinuance of the mandate system without having been completely reassured in this respect, it would be dividing with the mandatory Power the responsibility for the disappointments which Iraq might cause in the future.

M. Van Rees stated that, as a member of the Mandates Commission, he would personally never consent to accept the responsibility to which M. Orts had just referred.

The Commission, moreover, could not accept this responsibility. There was only one authority which could assume it, and that was the mandatory Power which was in a better position than anyone else to judge whether the territory was ready to be declared independent and to become a Member of the League of Nations. If Great Britain, as it had already done, formally declared that this was so, if it took the initiative before the Council, as it had done, for the emancipation of Iraq, it was Great Britain which took the moral responsibility for this action. The Mandates Commission did not share this responsibility, could not even do so, because it could not form an opinion with full knowledge of the facts, since it had at its disposal only the information supplied by the mandatory Power. What the Commission could say, as a result of its examination, was that it had not found sufficiently serious objections to justify an opinion to the effect that the proposal of the British Government should not be realised. If the information supplied to the Commission appeared to it to be conclusive, it could not go farther than that negative opinion, without tacitly assuming part of the responsibility for the unforeseen consequences, which were always possible, of the withdrawal of the mandatory authority in Iraq—a responsibility which did not belong to it.

M. Rappard pointed out that M. Orts, in drawing attention to the mandatory Power's definition of the work done, had brought the discussion back to the point at which it had started. This showed that Lord Lugard was right, and that the general conditions required for the termination of a mandate must first be examined. It was essential for the Commission, first, to set up its principles, and then to examine Iraq's particular case in the light of those principles.

M. Orts proposed that the Commission, after considering the report as a whole with the accredited representative, should deal with the question of the conditions to be fulfilled by Iraq in order that it should be recognised as having full independance. The Commission might embark on this question with a study of the double definition appearing on page 10 of the special report.

On that occasion, the accredited representative might be asked whether, apart from the framework of the institutions, there existed that spirit which was essential for their normal working. If the accredited representative replied in the affirmative, the Commission could assume its share of the responsibility. It could inform the Council that it was satisfied upon all the points within its competence—namely, the Constitution, political and administrative organisation. In so doing, the Commission would, however, point out that, as regarded the public spirit of Iraq, and its moral progress, it could but rely on the mandatory Power's statement.

M. Van Rees saw no objection to this procedure.

Lord Lugard thought that M. Orts' proposal was logical and that the accredited representative should be asked the questions he suggested, but the Commission's final decision on the question, whether Iraq should be liberated from the mandate regime should be deferred till the general question of the conditions of the withdrawal of a mandate had been decided.

M. Rappard emphasised the importance of the problem. The question, which was not only one of form, was most difficult. Unless the Commission had no misgivings about the complete emancipation of Iraq, it must avoid everything which might be construed as an approval of that policy.

M. Orts pointed out that he had described what was in his view the division of the responsibility between the Commission and the mandatory Power. If the latter refused to shoulder its responsibility, especially as regarded the future of the minorities, and refused to guarantee their security, the Commission could take note of the fact that, as regards this question, the mandatory Power refused to assume responsibility.

M. Merlin added that, even if the mandatory Power refused to give an undertaking, it would still have full responsibility, seeing that it had taken the initiative in declaring Iraq's independence. It played, so to speak, the role of godfather to Iraq vis-à-vis the League of Nations, and would therefore be entirely responsible from the moral standpoint, if the future should prove that the assurances it had given were invalid. This point must be clearly established.

M. Rappard pointed out that those who denied the Commission's responsibilities implicitly acknowledged that its work was vain. The Council of the League had a political responsibility but, if the Commission, after a profound study of the question, stated that the Council could proceed without demur, it assumed in so doing full and complete responsibility for its advice. It should not attempt to shirk this, but should make its opinion to the Council as authoritative

as possible. It was tantamount to suicide if it refused to give a decision on the question whether Iraq could be granted self-government without risk to the rest of the world.

After further discussion, *the Commission decided that, between the meetings at which the accrdeited representatives would be present, the Commission would hold if necessary private meetings at which the representatives in question would not be present and during which it would consider the points upon which supplementary information should be requested.*

SIXTEENTH MEETING

Held on Thursday, June 18th, 1931, at 4 p.m.

Iraq: Examination of the Special Report on the Progress of Iraq during the Period 1920-1931.

Sir Francis Humphrys, G.C.V.O., K.C.M.G., K.B.E., C.I.E., High Commissioner for Iraq, Major H.W. Young, C.M.G., D.S.O., Counsellor to the High Commissioner, and Mr. R.V. Vernon, C.B., and Mr. T.H. Hall, D.S.O., of the Colonial Office, came to the table of the Commission.

Welcome to the Accredited Representatives.

The Chairman was very happy to welcome in the name of the Commission Sir Francis Humphrys, Major Young, Mr. Vernon and Mr. Hall. In accrediting to the Commission its High Commissioner in Iraq the British Government no doubt desired to emphasise the importance it attached to the consideration by the Commission of the special report on the progress made by Iraq during the period 1920-1931. He was sure that he would be interpreting the feelings of his colleagues in thanking the mandatory Power for having thus delegated the British Government's distinguished representative in Baghdad to assist the Commission.

He added that his colleagues would no doubt share his satisfaction in meeting once more the Counsellor to the High Commissioner, Major Young, who had represented the mandatory Power six months previously at the nineteenth session of the Commission.

Before calling upon Sir Francis Humphrys for the general statement which he would no doubt wish to make, the Chairman would recall the circumstances in which the special report had originated.

At the meeting of the Council held on January 22nd, 1931, Mr. Henderson had made the following statement:

> "With regard to the Mandates Commission's request to be furnished with fuller information concerning the degree of political maturity attained by Iraq, he could have wished that the Commission had specified with somewhat greater precision the actual points upon which fuller information was required. The British Government would, however, at once take steps to prepare a comprehensive report containing a review of the progress made in Iraq under the mandatory regime, a general exposé of the existing situation, and all the information which it considered likely that the Commission would wish to possess. In order, however, to assist the Mandates Commission to submit definite views on the subject to the Council after its session in November, his Government suggested that the report in question should be a special one which could be submitted in time for consideration by the Commission at its June session. The special report would not, of course, replace the annual report on Iraq for the year 1930, which would be submitted as usual for the consideration of the Commission at its November session.
>
> "The procedure he had suggested would have the advantage that any deficiencies in the special report to which the Commission might draw attention in June could be remedied at its November session, either by the presentation of a supplementary report or by the oral evidence of the accredited representative. As soon as it was informed that this procedure would be agreeable to the Permanent Mandates Commission, the British Government would proceed to the preparation of the special report."

In fulfilment of this undertaking the British Government had sent to the Mandates Commission the voluminous Report in question, which it was now proposed to consider. It would be well, in so doing, to bear in mind that the Commission had to examine, not the details of the administration of the mandated territory, but the operation of the political and administrative machinery of Iraq, with a view to determining the degree of maturity which the territory had attained.

Statement by the Accredited Representative.

Sir Francis Humphrys thanked the Chairman for the welcome extended to his colleagues and himself. He was glad to have the privilege of meeting personally the members of the Commission, with whose names he had so long been familiar. He assured the Commission of his readiness to answer to the best of his ability, and with all possible frankness, any questions which might be put to him.

Sir Francis Humphrys then made the following statement:

My Government wishes me to thank the Commission most cordially for agreeing to deal with this special report on the progress of Iraq at the present session. It fully realises that this can only have been arranged at the cost of some dislocation of the Commission's time-table and inconvenience to the members, and it is most grateful for the considerate and courteous manner in which its suggestion has been met.

In the special report, which is now under consideration by the Commission, an attempt has been made to present an impartial and a complete general picture of the progress made in Iraq since the mandate was accepted by His Majesty's Government in April 1920. It is for the Commission to judge whether that attempt has been successful; but, what I should like to do now, if I may, is to bring the special report up to date by telling the Commission what has happened since it was drafted.

In the first place, the policy of encouraging the Iraqi Government to assume a progressively increasing share of responsibility has been, and is still being, pursued. A further reduction of thirty-two in the number of British and Indian officials given on page 293 of the special report will have been made by November. Two Iraqi Administrative Inspectors have been appointed to the Ministry for the Interior, and special steps have been taken to improve the general quality of the public services where necessary.

In general, the High Commissioner is finding it possible to reduce his intervention to a minimum, and the Iraqi Government is rapidly assuming full responsibility for the management of its own affairs. In the sphere of foreign affairs great progress has been made in consolidating friendly relations between the Iraqi Government and the Government of the Hejaz and Nejd. The Iraqi Prime Minister paid a visit to Jedda in the month of April, where he signed a Bon Voisinage Agreement, an Arbitration Protocol and an Extradition Treaty, which passed the Iraqi Parliament on May 16th. In addition to this, he signed a Treaty of Friendship between Iraq and Transjordan and an Extradition Treaty with Egypt. This important mission was carried out by the Iraqi Prime Minister unaccompanied by any British official. I have copies of the instruments here and will communicate them to the Commission, if it so desires.

In the sphere of defence, the operations against Shaikh Mahmud were brought to a successful conclusion on May 14th, when the Shaikh surrendered to the Iraqi Government on the terms it had offered him—namely, that his life and the lives of those of his family who surrendered with him would be spared; that he and they would be required to live at whatever place in Iraq the Iraqi Government might direct, and would not be permitted to leave it; that he would not be imprisoned or separated from his family, and that a sufficient allowance would be given to him for his needs. This result was due to the co-operation of the Iraqi army and police with the Royal Air Force and with the forces of the Persian Government across the frontier. The actual conduct of the ground operations was entirely in the hands of the Iraqi army, and no Assyrian levies were employed.

In the spheres of Interior and Justice, there is no new development to report, but, in the sphere of Finance, the approval by the Iraqi Parliament of the Agreement between the Iraqi Government and the Iraq Petroleum Company, Ltd. has produced a distinct improvement in the financial position.

I will not burden the Commission now with particulars of this Agreement, the text of which is given on pages 316 to 326 of the special report, although I shall, of course, be happy to furnish the Commission later with any explanations it may desire. For the moment I will confine myself to the statement that I believe that in obtaining these terms from the Oil Company the Iraqi Government has done its fellow-countrymen an inestimable service. There can be no possible doubt that the new Agreement is more favourable to Iraq than the Convention of 1925. One result of the Agreement will be to ensure the early and full development of the oil resources of Iraq. Another has been to release large areas of potentially valuable oil-bearing lands for development by other oil interests. As regards these lands, the Iraqi Government, I understand, intends to publish in the *Official Gazette* a general invitation for tenders, and to allow an adequate period during which offers for concessions may be submitted and considered on their merits.

The first payment of £400,000 provided for in Article 8 of the Agreement was made on May 21st, and a similar minimum payment will be made annually on January 1st, 1932, and for the next nineteen years.

With regard to labour, the Commission will remember that on page 245 of the special report it was stated that a resolution had been adopted by the Chamber of Deputies in December 1930, and passed to the Government for consideration. It may be of interest to the Commission to know what decision has been taken by the Iraqi Government in this matter. On May 19th, the Council of Ministers passed the following resolution:

> " The Council resolved that, in view of the obligations which will be laid upon the Iraqi Government by Article 23 (*a*) of the Covenant of the League of Nations upon the admission of Iraq to membership of the League, a committee should forthwith be appointed by the Prime Minister composed of representatives of the Ministries of Interior, Justice and Education, and of the Health Department, in order to consider and report to the Minister of the Interior upon the extent to which existing international labour conventions, more especially those relating to the employment of women and children in industrial and commercial undertakings,

can be adhered to, or generally followed by, the Iraqi Government. In order to assist the committee in arriving at its conclusions, it is authorised to depute one or more of its members to visit the International Labour Office at Geneva and to make such enquiries as the committee may consider desirable. "

I anticipate that a representative, or representatives, of the Committee mentioned in the foregoing resolution will visit Geneva during the course of the summer.

In the Department of Antiquities a new Director has been appointed, Dr. Jordan, a distinguished German archæologist, who has for many years been engaged in scientific work in Iraq. A step has been taken in the direction of reducing the illicit digging, to which reference was made on page 248 of the special report by the appointment of three travelling inspectors, and a new form of licence has been approved, whereby permission to traffic is restricted to the town in which the dealer has his place of business. It is hoped by this means to prevent a dealer from Baghdad, for example, from going to the neighbourhood of excavations in other districts and purchasing objects there.

I now come to the question of the racial and religious minorities, and I hope the Commission will bear with me if I express my views on this subject at some length. The recommendations of the Permanent Mandates Commission, which were subsequently adopted by the Council of the League [1] and were quoted on page 264 of the special report, reached me on December 22nd, 1930, and I took immediate steps in anticipation of their adoption by the Council to prepare for the carrying out of the second recommendation which was:

" To request the mandatory Power to see that the legislative and administrative measures designed to secure for the Kurds the position to which they are entitled are promptly put into effect and properly enforced. "

The most important of the measures referred to was undoubtedly the enactment of the Local Languages Law and the consequent introduction in certain areas of Kurdish as the official language. But here a practical difficulty was encountered, owing to the fact that there is no single Kurdish language in general use throughout the Kurdish districts of Iraq. If there had been only two distinct languages, one in the North and the other in the South, there would have been no serious objection, if the Kurds desired it, to making each applicable by law to its particular area. But the number of local dialects was not limited to two, and even in the Sulaimaniya liwa itself there were several dialects spoken, while in the Mosul, Kirkuk and Arbil liwas these linguistic variations were even more numerous. After discussion with the Iraqi Government and consultation with representative Kurds, the difficulty was eventually solved by the addition of a new article providing that in the qadhas of the liwas of Sulaimaniya, Kirkuk and Arbil, to which the law applies, the form of Kurdish to be employed should be that at present in use, and that within a period of one year the inhabitants of the six Kurdish qadhas of the Mosul district should choose the form of Kurdish they desired.

The law finally passed both Houses of Parliament on May 19th. I have copies of the law with me, which I will communicate to the Commission. It will be observed that there are certain variations from the draft communicated to the League [2] last year, but I am confident that the Commission will agree that in every case these are reasonable and unobjectionable.

Until the Languages Law was enforced and the Kurdish areas thereby defined, it was legally impracticable, even if it had been politically desirable, to anticipate its provisions to more than the extent that had already been done in practice during the past few years. What now remains to be done is to ascertain the wishes of the Kurds in the Kurdish qadhas of the Mosul liwa as to the form of Kurdish they prefer; to see that the provisions of the law with regard to the use of Kurdish in judicial, administrative and educational matters are fully implemented in any areas where they have not in practice been implemented in the past; and to conform to the policy outlined by the Acting Prime Minister in his letter of August 1930, with regard to the employment of officials in the Kurdish areas. I have with me statistics of these officials, showing the exact position as it stood on December 31st, 1930, which may be briefly summarised as follows:

Of the total number of 152 officials employed in the Kurdish areas of the Mosul liwa, there were 52 Kurds and 100 non-Kurds. Of the latter, there were only 25 who had not a good knowledge of Kurdish. In the Arbil liwa, of the 199 officials employed, 115 were Kurds and 84 non-Kurds, of whom only 25 had not a good knowledge of Kurdish. In the Kirkuk liwa, of the 232 officials employed, 42 were Kurds and 190 non-Kurds, of whom 39 had not a good knowledge of Kurdish. It should be noted that, of these 190, 106 are Turcomans, who are employed in accordance with the promise of a former Iraqi Prime Minister in the year 1923, which is mentioned on page 257 of the special report. In the Sulaimaniya liwa, of the 173 officials employed, 125 were Kurds and 48 non-Kurds, of whom 11 only had not a good knowledge of Kurdish. There still remained, therefore, at the end of 1930 a total of 100 officials out of 756 in the Kurdish areas who were not Kurds and did not know Kurdish, but 48 of these were Christians and 1 was a Turcoman. The purely Arab officials in these areas who did not know Kurdish numbered 51, or just 6½ per cent

---

[1] See Minutes of the sixty-second session of the Council, pages 179 and following.
[2] See Minutes of the nineteenth session, Permanent Mandates Commission, pages 189 to 191.

of the total, some of them of course being in technical departments. Steps are being taken to see either that they are replaced or that they will have to satisfy the Iraqi Government within a reasonable period that they have acquired a satisfactory knowledge of Kurdish. The special measures which are being taken to improve the general quality of the public services will result in a certain number of vacancies, some of which it is hoped may be filled by the transfer to the Kurdish areas of Kurds or Kurdish-speaking Arabs in replacement of those now serving who know no Kurdish.

Before I go on to the question of the other minorities, I should like to tell the Commission that during the months of April and May I paid five separate visits to a large number of towns and villages in the Kurdish districts, and interviewed in private nearly all the leading Kurds. My purpose was both to listen sympathetically to anything they had to say about their present circumstances and their ideas for the future, and to disabuse their minds of certain misapprehensions which had been brought to my notice, and to advise them generally on their future conduct. I found everywhere a feeling of anxiety regarding the future of the Kurds when mandatory control would be withdrawn from Iraq, and a desire that their claim to just and equal treatment with the other racial elements of the country should be safeguarded. I endeavoured to allay these misgivings by assuring them of the goodwill of the Iraqi Government. At the same time I warned them that they must abandon the extravagant demands, such as that for separation from Iraq, which had recently been put forward in a number of petitions. After a close study of the whole position during a number of years, His Majesty's Government had, I explained, come to the final conclusion that the only possible way in which the Kurds in Iraq could safeguard their present and future interests was by union with the Arabs and other races within the Kingdom of Iraq. The claims for Kurdish independence which had been formulated in the early days after the war had later of necessity been abandoned, and I advised them to face the facts and make the best of things as they were. His Majesty's Government desired to see them living happily in Iraq and enjoying the same opportunities for development and progress as all other Iraqis.

I also spoke about the Local Languages Law, and said that its enactment was clear evidence of the intention of the Iraqi Government to carry out its undertakings regarding the Kurds. Most of those whose opinion I asked regarding the Law appeared satisfied with its general provisions, provided that they were sympathetically and promptly carried out. I found that there was a unanimous desire among all responsible Kurds for improved educational facilities. They are clearly awakening to the fact that the Arabs are moving far ahead of them in education and learning and they fear that, unless they can speed up their own educational developments, they will in a few years, in spite of any statutory safeguards which may be devised for them, drop into the position of a backward and ignorant minority.

Again, a natural desire was expressed that the great majority of the officials serving in the northern districts should belong to the Kurdish race. I pointed out that there were two principal objections to the exclusion of officials of other communities from service in the Kurdish areas. First, such exclusion would logically debar Kurds from obtaining appointments in Iraq outside their own districts, and, secondly, it might well happen that an unbiassed Arab official who held the scales equally between the various tribal divisions would make a better Governor than a local Kurd who would be apt to be prejudiced in favour of his own particular section. The Iraqi Government, however, had undertaken that all officials serving in the Kurdish areas should be acquainted with the Kurdish language. I felt that the most important test was efficiency and honesty rather than race.

Everywhere I found a feeling of relief that the rebellion of Shaikh Mahmud had been put down with a complete absence of friction between the Arabs who mainly composed the Iraqi army and the local Kurdish population. In fact, it was the best augury for future harmony between Arab and Kurd that I received not a single complaint of any excesses or misconduct on the part of the Iraqi army or police during the six months' operations against Shaikh Mahmud, and observed everywhere a genuine desire for peace.

A serious complaint of oppression came to me from the nomadic Kurds, who for centuries have pastured their flocks for seven months of the year in Iraq and the five summer months in Persia, where they own lands. These nomads complained that orders had been received from the Persian Government refusing permission for them to occupy their lands in Persian territory unless they came unarmed. They argued that the observance of this order would place them at the mercy of the Persian mountain tribes who had not been disarmed by their own Government, while, if they were forced to remain in Iraq during the summer months, their flocks would die, and the majority of them would starve. On my return to Baghdad, the Iraqi Government agreed, at my suggestion, to make urgent representations to the Persian Government on this subject. Unless the order is rescinded by the Persian Government, there is the certainty of serious economic dislocation and great suffering, possibly leading to grave disorders in the frontier regions.

The relations between the Arabs and the Kurds in Iraq are complicated, not only by racial, but also by geographical factors. The Arabs live in the plains and the Kurds in the mountains, and I need not remind the Commission that in countries where the seat of government is in the

plains, the plainsman is apt to argue that his fellow-subject in the hills, who does not contribute so much to the national revenue, should be content with a smaller proportion of expenditure on public services than that which is allotted to himself. He claims that the majority of the revenue of the country comes from the plains and it is unfair to spend it upon the unproductive hills. The hillman, on the other hand, is traditionally proud and independent and apt to resent dictation from the plains.

As the result of my tour, I was convinced that the Kurds had few specific grievances to urge against the Iraqi Government, but that the atmosphere was wrong, and that what was required was a better understanding of each other, more confidence on the part of the Kurds and more sympathy on the part of the Arabs in the Central Government.

The foundation for such an understanding can best be laid by Ministerial tours and a frank exchange of views with the tribal representatives. An auspicious start has been made by King Faisal's recent tour in the northern districts, and the visit of the Minister of the Interior to Mosul and Sulaimaniya. The Prime Minister also proposes to tour in Kurdistan during the summer.

Circumstances, which I need not detail here, but which have been fully explained in the section on the Kurds in the special report, have led to an artificial emphasis being laid upon the difference between the Arabs and Kurds in Iraq. The result has been that the efforts of His Majesty's Government to remove these differences have hitherto been open to suspicion. The Arabs have not been able to rid themselves of the feeling that it was the policy of the Allied Powers and of His Majesty's Government to encourage separatism in the predominantly Kurdish areas. The tour of the Acting Prime Minister and the Acting High Commissioner last year, and the statements which they made, of which copies are printed as Appendices to the special report on pages 327 to 329, went far to dispel these suspicions, but they did not entirely allay them, and the subsequent activities of certain individuals, to which I shall refer later, undoubtedly revived them. That the Iraqi Government is now quite satisfied that no such policy is being pursued is clear from the following statements which were made by the Iraqi Minister of the Interior on May 17th, in the course of a speech which he delivered at Sulaimaniya:

"I am now glad to announce to you that the policy of my Government may be summarised in the following words:

"A policy of sympathy and sincerity to the utmost extent possible, aiming at the revival of the spirit of co-operation between the two races with the object of uplifting the Iraqi nation, realising its complete independence and, God willing, guiding its ship into the haven of safety.

"As you will realise, our policy is one of brotherhood and not one of lord and servant. How much I was pained in the past when I heard certain Kurds make a minority of the Kurdish race. Gentlemen, I consider such a thing an insult to your noble race, of whom we had always wished in the past, and still wish, to make a partner with his Arab brother in our youthful State. If we go through the history of some of the more prominent Iraqi families and personalities, we will find that a considerable proportion of them are descended from the honourable Kurdish nation.

"Thus the policy of co-operation within a united Iraq made us in the past, and makes of us at present, partners in the exercise of government and in all the spheres of life, whether governmental or social. I think you will agree with me if I tell you that in the unity and independence of Iraq is the only guarantee for the advancement and progress of the Kurds.

"You may feel confident that you have in my person a friend and supporter who is very anxious to bring happiness into your hearts and to realise your legitimate aspirations under the benevolent ægis of the Iraqi unity—aspirations which at no time should be opposed to the interests and complete independence of the State of Iraq.

"British policy towards Iraq has now been explained and stated in a manner which admits of no misconstruction. Responsible British Ministers have already declared it in all political quarters. The said policy may be summarised thus: the abolition of all special relations with Britain and the realisation of the complete independence of Iraq by facilitating its admission into the League of Nations.

"I believe that the time has come for us all to forget the past, its suffering and mistakes, and the misunderstandings and estrangement which it brought about between us and to welcome a new era brought about by the policy of His Majesty the King—an era full of hopes and aspirations for the prosperity of the country.

"I have the honour of visiting your liwa in order to make you confident as to the goodwill and sympathetic policy of the Government towards you. In proof of this, in the name of His Majesty and with the authorisation from His Excellency the Prime Minister, I have pardoned those accused of participation in the recent movements in the Sulaimaniya liwa, and I have actually (caused to be) released those in custody, and made over to them the live-stock and other property which the Government had seized from them. I have only excepted a few persons who, it has been proved, have committed unpardonable offences, and whose names the local authorities will shortly publish for your information."

This statesmanlike utterance by the responsible Minister, coupled with the good behaviour of the Iraqi forces, to which I have already referred, and the generous treatment accorded by the Iraqi Government to Sheikh Mahmud and to his brother Shaikh Qadir, who has been allowed to return to Sulaimaniya, are factors which appear to me to augur well for the future relations between the Arabs and the Kurds in Iraq.

It will, however, be some time before the impression that some entirely separate treatment, other than that embodied in the letter of the Acting Prime Minister dated August 19th, 1930, has been, or will be, prescribed for the Kurds finally disappears from the minds either of the Kurds themselves, or of those Arab elements which have hitherto been most suspicious of possible separatism. I do not wish to give the impression that representative Kurdish opinion in Iraq is at present fully satisfied with the programme which has been adopted by the Iraqi Government, but I do feel most strongly that, if this programme is wisely and generously carried out, and if the policy which has once more been affirmed by the present Minister of the Interior is entrusted to the hands of sympathetic officials, either of Kurdish race or with a thorough knowledge of the Kurdish language, the Kurdish problem in Iraq will be greatly simplified.

To turn now to the linked question of the other minorities. His Majesty's Government has communicated its observations on the petition of a certain Captain Rassam and I do not propose now to make any reference to the specific allegations made in that petition. During my visit to the northern areas, I went very closely into this question and have arrived at the following conclusions.

In the first place, there is no doubt that concurrently with the activities of the petitioner and his associate Mr. Cope during the year 1930, a mischievous propaganda was started in Iraq with the object of setting the Kurds and Assyrians, who have lived together quite happily in the past, against each other. The combined effect of the efforts which were made to unite the minorities against the Iraqi Government and of the misguided propaganda to which I have referred above has been to produce an entirely artificial state of affairs.

It will be seen from the section on the Assyrians in the special report that I was not satisfied, at the time the report was drafted, regarding the question of the remission of taxation to Assyrian settlers. I am glad to be able to inform the Commission that this point has been settled, and that the remission that was promised has now been granted.

Reference is made in the same section to the completion of settlement operations.

The attitude of the Iraqi Government towards the difficult question of Assyrian settlement is governed by the following principles. In the first place the Government recognises that, to the extent that it is physically possible, without dispossessing existing owners of land or antagonising the Kurdish tribes, it is desirable to find homes in suitable hill-country both for the Assyrians who are natives of Iraq and for Assyrian refugees from Turkey. At the same time it is anxious to avoid encouraging Assyrian settlement in areas which are not under full administrative control, and in which there might therefore be danger of raids or isolated cases of attacks upon individuals.

The whole question demands the most delicate handling. If, for example, the Kurds were to gain the impression that any measures which the Iraqi Government might find it necessary to take for the extension of its influence in the difficult hill-country were dictated largely or primarily by the consideration of finding homes for the Assyrians, it is clear that the effect would be unfortunate and might stultify all efforts to achieve this object. Similarly, any settlement operations in the immediate neighbourhood of the Turkish frontier might give rise to apprehension that the peace of the frontier regions would be disturbed. The Iraqi Government is at all times ready to consider the possibility of settling the Assyrians in the plains, but, as the Commission knows, this solution is not welcome to the Assyrians themselves.

With regard to other Assyrian refugees, who come down from Russia and Persia, the Iraqi Government cannot accept the same degree of responsibility. In the case of Persia, especially, it feels that it would not be unreasonable to expect the Persian Government to settle their own Assyrians, and that the Iraqi Government is itself justified in deprecating any further aggravation of the Assyrian settlement difficulty in Iraq by the influx of Assyrians from or through Persia.

During his approaching tour of Kurdistan the Prime Minister proposes to pay personal attention to this problem.

I do not think the Assyrians have now any real cause for complaint. I have discussed the whole question fully with the Patriarch, who apparently still hopes that it will be found possible to introduce some special autonomous regime for his community. I may perhaps mention that the Patriarch or Mar Shimum, in spite of his venerable title, is an impressionable youth of some 22 years of age. He has been encouraged in his hopes by the statements made by Mr. Cope, and so long as he persists in working for this object, so long will it be difficult for his community to settle down, in what I am convinced is the only satisfactory position—namely, as contented subjects of the Kingdom of Iraq. I do not believe, from my conversations with other representative Assyrians, that the Patriarch's views are shared by any but a very small section of his community, and I trust that it will be found possible to give the same answer to the suggestion for an autonomous minorities enclave as has already been given by the Council of the League to the suggestion for an autonomous Kurdistan. Until this proposal has been definitely rejected by the League, there is a very real danger that a Christian minorities problem may be created in a country

where Moslem, Christian and Jew have lived happily side by side for centuries. I have with me a map and full particulars of the distribution of the Assyrian settlements from which it can be seen at a glance how impracticable any such scheme would be, even if it were not politically undesirable.

Here again, I do not wish to give the impression that the Christian and Yezidi minorities are at present completely satisfied with the policy of the Iraqi Government, although this is certainly the case where the Jewish community is concerned, as has been pointed out in His Majesty's Government's observations on the Rassam petition. It will be remembered that, on page 30 of the special report, it has been frankly stated that cases have occurred where individual Iraqi officials have proved themselves unworthy of their responsibility. There is no doubt that, during the period between September 1929 and the date when the special report was drafted, there were instances of unwise action on the part of certain Iraqi officials, but, as I have said above, and as has been pointed out in the special report, these actions have to a certain extent been due to the apprehensions raised by what I can only describe as the unfortunate activities of certain outside elements.

The Yezidis, for example, have put forward certain grievances, of which I have full particulars with me and about which I shall be happy to answer any questions. But isolated grievances of this kind do not create a minorities question, nor should they, in my opinion, be allowed to create one.

As an example of definite and deliberate attempts to create a minorities question, I would instance the propaganda of Captain Rassam and his associate Mr. Cope, who was deported from Iraq with my full approval on April 18th. These two individuals came out to Mosul early in 1930 with the object of starting an export business. When this failed, they launched, on behalf of the non-Moslem minorities, a campaign of vilification against the Iraqi Government. This campaign, which was based for the most part on gross misstatements of facts, was calculated to do immense harm to the interests of the minorities themselves by exciting religious animosities where none before existed. The harm done by the activities of these two individuals is, I believe, not irreparable, but their propaganda caused a state of affairs in Mosul and the neighbourhood which gave rise to legitimate apprehension on the part of the Iraqi Government that there would be a disturbance of the public peace.

In this connection I feel it is necessary to inform you of the recent action which the Iraq Government has been constrained to take against a certain Tawfiq Beg Wahbi (who has addressed a petition to the League) and some of his associates. Early in May, as the result of the routine opening in the Post Office of correspondence insufficiently addressed and from other information received, the Iraqi Government formed the view that a dangerous movement, apparently directed by Tawfiq Wahbi, was on foot to unite the religious and racial minorities in Iraq in a hostile combination against the existing regime. The Iraqi Government acquainted me with these circumstances and asked for my concurrence in the issue of warrants for the arrest of Tawfiq Wahbi and certain other persons who appeared to be implicated in this intrigue, in order that a thorough search might be made of their homes, with a view to ascertaining whether there were in fact adequate grounds to justify the Government's apprehension that there existed a widespread conspiracy directed against the safety and unity of the State. To this I agreed, and action was taken by the police accordingly. In all, fifteen persons were arrested in Mosul and Baghdad, including Tawfiq Wahbi. Two of these were released on the day of arrest, eleven were released on bail within ten days from the date of their respective arrests, and the remaining two—namely, Tawfiq Wahbi and Sa'id Namuk ibn Altun were detained until May 30th, when all were released unconditionally. During the period of detention of these persons the police, on the authority of the investigating officers, carried out a search of their houses, and a quantity of correspondence was seized. This correspondence was sifted by the police who in due course made their report to the Prosecutor-General. The law officers of the Iraqi Government considered the evidence collected by the police, and decided that, while there were documents and other evidence that showed that the persons who had been arrested had been undoubtedly endeavouring to discredit the Iraqi Government in the eyes of certain of the minority communities of the country, and to stimulate, by a campaign of vilification and misrepresentation, a demand for separation from Iraq, there was not evidence sufficient to sustain a prosecution based on any charge under the Baghdad Penal Code. The Iraqi Government, having considered this opinion, decided that it would not be justified in proceeding further against the persons arrested.

In conclusion, I should like to say a few words on the crucial question of Iraq's fitness for emancipation from mandatory control. I approach this subject with the greatest diffidence, because I know that it has for some time been engaging the close and serious consideration of the Commission, and I do not wish to seem to be in any way exceeding my proper sphere. But the matter is of such vital importance that I cannot forbear to pass on to the Commission some of the considerations which appear to me as having an important bearing on the question.

On approaching this problem, the question at once presents itself of what is the test to be applied to Iraq. What is to be the touchstone of independence in this case ? Is it to be some absolute standard evolved from abstract principles, or a relative or comparative standard ? In either case what is to be that standard ? The whole question is, as I am sure the Commission itself is only too well aware, fraught with the greatest difficulties. But I venture to think that the wording of the Covenant and consideration of what appears to have been in the minds of those who drew up that instrument, might afford some measure of guidance. This is at least an obvious approach to the problem.

Article 22 of the Covenant speaks of States " which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world ". Later, referring, *inter alia*, to Iraq, it speaks of communities " which have reached a stage of development where their existence as independent nations can be provisionally recognised ". From Article 1 of the Covenant it seems that the principal qualification for membership of the League is that a State should be " fully self-governing " and should give " effective guarantees of its sincere intention to observe its international obligations ". It seems, therefore, that the framers of the Covenant did not intend that membership should be restricted to those States only which had attained to a specially high level of cultural and political development. To the framers of the Covenant, at any rate, the criteria would seem to have been that a State should be fully self-governing, should be able to stand alone and should be such as could be relied upon to observe its international engagee ments. Their ideal, I suggest, was to make the League of Nations as all-embracing an organisation as possible, rather than to make it exclusive. Possibly, their confident hope was that the influenc- of association in that great comity of nations and the effect of precept and example would do more to foster the advancement of backward States and to give strength to those that were weak than would the application of the principle of exclusion, however discriminating.

Again, the primary consideration which governed the application of the mandatory system would appear to have been not perfection, or imperfection, but ability or inability to stand alone. The framers of the Covenant do not seem to have asked themselves whether the system of public administration or the political methods of this or that State were of a satisfactory standard. No, the test applied seems to have been whether the State in question could stand alone and could govern itself without external assistance.

Now Iraq is admittedly not free from imperfections. There are doubtless features in the administration, in the cultural development and in the conditions of life in Iraq which are open to criticism. It is not suggested that Iraq can challenge comparison with the more highly developed and civilised nations of the modern world. It might never do so, even were mandatory control continued for many years. But is such a comparison either fair or necessary ? A gardener does not exclude a rose-three from his garden merely because it will never grow as big or as strong as a magnolia tree. Both trees serve a useful function within the limits imposed by their own natures; both trees improve in strength and development in the rich soil of a garden and with careful tending. To take another analogy: nobody would think of excluding a Moth aeroplane from an international exhibition merely because it is not so powerful or so swift as (say) a three-engined Fokker. Both machines serve a useful function in their own spheres and it would be absurd to suggest that the " Moth " should not be allowed to leave the ground merely because it cannot travel so fast or carry so many passengers as a more powerful aeroplane.

Similarly I submit that it would not be right to attempt to argue that Iraq is not fit to function independently merely because the machinery of government there may not run quite so smoothly or so efficiently as in some more advanced or more highly developed State. As my Government has attempted to show in the special report, the Iraqi State, given the support and inspiration of membership of the League, is now fit to stand alone; it is now capable of self-government, indeed for all practical purposes it is already governing itself; it has shown itself jealous of the sanctity of international engagements. I submit that, in those circumstances, there is no longer justification for continuance of mandatory control, and that to grant Iraq independence and the opportunity for progress and development offered by admission to the League would be in full accord with the spirit of the Covenant and the high ideals with which the founders of the League were inspired.

Petition of Tawfiq Beg Wahbi.

M. Catastini, referring to Sir Francis Humphrys' allusion in his statement to the petition of a certain Tawfiq Beg Wahbi, said that that petition, which concerned the position of the Kurds in Iraq, had just been forwarded to the Secretary-General by the British Government, with the latter's observations, for communication to the Mandates Commission. The British Government had announced that its observations would be supplemented by a memorandum, to be forwarded later. The Secretariat had immediately taken steps to ensure the prompt distribution of that document, which would be submitted, in proof, to members of the Commission on the following Saturday.

Judicial Organisation.

M. Ruppel noted a passage in the statement to the effect that in the sphere of Justice there was no new development to report. He referred in this connection to a passage on page 82 (paragraph 10) of the special report, which stated that steps were being taken to bring into force the Judicial Agreement of 1930, and to a further statement, on page 78, that Parliament was considering an amending law to the Criminal Procedure Regulations. He enquired whether the provisions in question were now in force.

Sir Francis HUMPHRYS replied in the affirmative and handed M. Ruppel the text of the amending law.

DEMOGRAPHIC STATISTICS.

Count DE PENHA GARCIA had not found in the special report any reference to the demographic position from the point of view of the distribution of the races, the movement and distribution of the population according to sex, age, profession, etc. He would like the next report to contain figures of the ethnical distribution of the population and all demographic information. During the past ten years two censuses should normally have been taken.

Sir Francis HUMPHRYS undertook that Count de Penha Garcia's request should be met if possible.

ATTITUDE OF THE PERSIAN GOVERNMENT REGARDING NOMADIC KURDISH TRIBES.

M. VAN REES desired information on two points.

He understood, as regards the nomadic Kurds mentioned in the statement, that, should the Persian Government persist in its attitude and refuse to allow them to cross the frontier, the majority of those nomads would starve. Would there not be some way of avoiding this and of finding a satisfactory solution ?

Sir Francis HUMPHRYS replied that he had interviewed the nomads himself and had asked them if there was no summer pasture for their flocks in Iraq. They had replied in the negative and that fact had afterwards been verified by the local Governor, who had already made strong representations in the matter. They would either have to acquiesce in starvation or would force their way through to Persia. There was no other alternative, unless the Persian Government followed the policy of *laisser faire,* should they actually cross the frontier.

The CHAIRMAN enquired how it was that they came to be under the authority of Iraq, while having lands in Persia.

Sir Francis HUMPHRYS pointed out that they also owned land in Iraq, and spent the greater part of the year there.

M. ORTS enquired whether there was any reason for the sudden change in the Persian Government's attitude towards a situation which had existed for a considerable time, seeing that the frontier between Iraq and Persia had not been modified in recent years.

Sir Francis HUMPHRYS explained that, although the Persians wished to disarm all their own frontier tribes, they had not yet done so. As soon as that was done, he thought that the Iraqi nomads would also be ready to disarm.

SHAIKH MAHMUD.

M. VAN REES, referring to a passage in the statement concerning Shaikh Mahmud and the future relations between the Arabs and Kurds in Iraq, wondered whether the view expressed by the accredited representative was not somewhat optimistic, seeing that Shaikh Mahmud had twice broken his promises.

Sir Francis HUMPHRYS pointed out that one of the terms of his surrender had been that he would be required to remain in a specified place, so that he would not be able to escape. The generous treatment accorded to which Sir Francis had referred in his opening statement consisted in the fact that Shaikh Mahmud had been allowed to surrender in a manner suited to his position, and had been conveyed in an aeroplane, instead of being publicly escorted to Baghdad. The members of his family had been permitted to accompany him. He had, in fact, been treated as a brave enemy, though a mistaken one.

POSITION OF THE CHRISTIAN AND OTHER NON-MOSLEM MINORITIES AND POSITION OF THE KURDS.

Count DE PENHA GARCIA had formed the impression, from certain passages in the statement, that the mandatory Power had had to show great tact in dealing with the minorities. He enquired whether, when the mandatory Power was no longer there, the same tact would always be shown.

Sir Francis HUMPHRYS replied that, in the case of Tawfiq Beg Wahbi, all the action taken had been taken with his full approval, and he regarded the treatment accorded as both fair and suitable. As regards the passage in the statement to the effect that cases had occurred where individual Iraqi officials had proved themselves unworthy of their responsibility, he had had in mind a case

among the Yezidis: there had been an unjust judge and an incompetent police official, both of whom had been removed by the Iraqi Government itself.

Count DE PENHA GARCIA said that he was thinking particularly of the reference to the apprehension on the part of the Iraqi Government that there might be trouble. He wondered what might happen in the future.

Sir Francis HUMPHRYS replied that, on one of his visits to Mosul, he had learnt that both the Christians and the Moslems were apprehensive of a massacre; people had come to the local officials to ask if there was any truth in either of those reports. He felt perfectly sure that there had been no truth in them; they were quite unfounded, and arose directly from the propaganda of Rassam and Cope. These apprehensions were not shared by the Iraqi Government, but it was naturally anxious that the state of tension should not lead to any disturbance.

M. ORTS, referring to the Rassam and Cope petitions, observed that accusations must always carry more or less weight according to the authority of the person by whom they were made. The accredited representative had spoken severely of the petitioners, and had brought a serious charge against them—namely, that they had attempted to stir up religious unrest, and that from interested motives. The accredited representative would not, he felt sure, have expressed his opinion so categorically without due cause. He observed that the document containing the British Government's observations on the Rassam petition also contained communications from apparently very reliable persons. He would be glad to know what reliance could be placed on the statements of certain of those persons. He would give their names in writing.

He could not help being struck by the fact that Rassam and Cope had apparently found it a very easy matter to stir up agitation. He had the impression that those people, hitherto living at peace with one another, were morally prepared to welcome such a movement. He enquired whether there were other reasons to account for the fact that the population had been so apprehensive of massacres.

Lord LUGARD asked whether it would not have been possible to adopt the same procedure for Cope and Rassam as in the case of Tawfiq Beg Wahbi—that was to say, to hold a judicial enquiry.

Sir Francis HUMPHRYS pointed out that Captain Rassam had left the country some months before, and explained that, as Mr. Cope was a foreigner, the procedure adopted in the case of Tawfiq Beq Wahbi and other Iraqis would not have been appropriate in his case.

Replying to M. Orts' question as to the feeling among the population, he stated that the people had been living in harmony up to the time of the publishing of the new Treaty, when they were led by Captain Rassam and Mr. Cope to believe that the absence in the Treaty of safeguards for minorities meant that no safeguards were contemplated. They had not realised that the necessary safeguards would be furnished by the guarantees which Iraq would be required to give before being admitted to membership of the League. Letters which had been intercepted showed that the assistant agitators had regarded Mr. Cope as the backbone of the movement, and recognised that, if he were removed, it would subside. He had himself paid two visits to the district in question since Mr. Cope's deportation, and had heard expressions of satisfaction that all danger of massacre was now over.

Replying to an observation of M. Orts, he explained that, where he had said in his opening statement, that the harm done was, he hoped, not irreparable, he should have said that the harm done was *certainly* not irreparable.

M. RAPPARD, referring to a certain passage in the statement, enquired whether the feeling of relief experienced everywhere in the Kurdish districts had been due to the fact that the rebellion of Shaikh Mahmud had been put down, or to the fact that it had been put down with a complete absence of friction between the Iraqi army and the local Kurdish population.

Sir Francis HUMPHRYS replied that it was due to both. The people had been very much relieved that the rebellion was at an end: they had been paying double taxes, having had to pay first the Shaikh and then the Iraqi tax-collector. They had always been told by the Pan-Kurdish extremists that, if the Iraqi army ever operated in Kurdistan, it would certainly pillage, rape, and commit every kind of atrocity, that the villages would be destroyed, and that there would be no more peace. They had accordingly been very much relieved to find that the Iraqi army could operate for six months without any such results.

Replying to a question whether Shaikh Mahmud was a national hero, Sir Francis said that he had been popular on religious and family grounds, but unpopular owing to the fact that the people had twice experienced his rule.

The CHAIRMAN enquired what proportion of British officers were present with the troops in Kurdistan.

Sir Francis HUMPHRYS replied that the proportion was one member of the British advisory military mission per column, a column varying from three to six companies.

M. RAPPARD compared the accredited representative's reference to the minorities question with his quotation from the speech of the Iraqi Minister of the Interior: " How much I was pained in the past when I heard certain Kurds make a minority of the Kurdish race ". He thought that, if ever there had been a minority, it was the Kurdish minority. There seemed

to be no great hope for the future if the majority in Iraq denied the very existence of that minority.

Sir Francis HUMPHRYS thought that the Minister of the Interior had had in mind the particula society of Kurds who were demanding separation for the Kurdish race. He agreed that ther sentence in question was liable to be misunderstood, but it was probably a reference to the exclusive attitude of certain parties as regards, for example, the employment of Kurdish officials. There was also the feeling that a minority implied subordination, and the speech was intended to emphasise the idea of Iraqi unity and equality for all.

Replying to M. Rappard, the accredited representative said that, if the Iraqi Government were asked whether it recognised the Kurds and Assyrians as being minorities, it would certainly reply in the affirmative, but would probably say that the existence of minorities did not necessarily constitute a minority question.

M. RAPPARD observed that this point was important in view of the Commission's present task. It had to consider what hope there was of getting loyal co-operation as regards guarantees for the minorities.

He noted one passage in the last part of the statement: " The Iraqi State ", he read, " has shown itself jealous of the sanctity of international engagements ". He thought that the Bahai question and the question of the Kurds were not very significant of such an attitude.

Sir Francis HUMPHRYS observed that the international engagements to which he had referred were chiefly with Great Britain, Turkey, the Nejd and Persia—that was to say, with Iraq's neighbours, with whom the Iraqi State had a good reputation for keeping faith. There was also the list of international Conventions given on page 37 of the report. He must join issue with M. Rappard on the suggestion that the Bahai case could be classed in the category of international engagements.

He agreed that the decision in this case had been unfortunate; the question now was how to deal with a *res judicata* in a manner that was strictly legal. The idea of taking it before the Permanent Court of International Justice had been abandoned, but he hoped to be able to show the Commission that the matter was being dealt with satisfactorily.

PROPORTION OF NON-KURDISH-SPEAKING OFFICIALS.

Lord LUGARD, referring to the passage in the accredited representative's statement to the effect that there still remained at the end of 1930 a total of 100 officials out of 756 in the Kurdish areas " who were not Kurds, and did not know Kurdish ", enquired how many approximately of those officials were in the Administration and how many in technical posts.

Sir Francis HUMPHRYS said he would make a statement on the subject.

Sir Francis Humphrys subsequently submitted the following reply to Lord Lugard's question:

Of the 100 officials mentioned, 21 are gazetted and 79 non-gazetted, distributed as follows:

Gazetted Officials.

	Arab	Turcoman	Christian and Jew
General Administration	3	—	—
Police	5	—	—
Justice	1	—	—
Land registration	1	—	—
Customs	3	—	1
Finance	2	1	—
Jails	—	—	1
Health	—	—	2
Agriculture	—	—	1
Total	15	1	5

Non-Gazetted Officials.

General Administration	4	—	1
Police	11	—	4
Justice	—	—	—
Land registration	2	—	1
Customs	3	—	4
Finance	2	1	1
Education	9	—	15
Posts and Telegraph	2	—	7
Health	1	—	4
Agriculture	—	—	1
Public Work Department	1	—	4
Jails	1	—	—
Total	36	1	42

There are three points which ought not to be forgotten in considering these figures. In the first place, they are not quite up to date—the returns which have been called for are sent in every six months and the next is due on July 1st. Moreover, a number of these officials have already been replaced by Kurds or by non-Kurds with a knowledge of Kurdish. Secondly, the Language Law provides for correspondence between liwas and Baghdad, and between qadhas and liwa headquarters at Mosul, being conducted in Arabic. This naturally involves the retention of a certain number of Arab clerical officials in these areas. Lastly, the Mosul qadhas cannot be brought under the Language Law until the local Kurds have chosen what form of Kurdish they wish to use. There is every reason to hope that the proportion of non-Kurdish-speaking officials will be considerably reduced in the near future.

SEVENTEENTH MEETING

Held on Friday, June 19th, 1931, at 10.30 a.m.

Iraq: Examination of the Special Report on the Progress of Iraq during the Period 1920-1931 (continuation).

Sir Francis Humphrys, Major H. W. Young, Mr. R. V. Vernon and Mr. T. H. Hall came to the table of the Commission.

The Bahai Case.

M. Orts recalled the severe criticisms made both by the Mandates Commission and the British Government itself of the supreme judicial authority of Iraq and the highest authorities in the country for their partiality and weakness in connection with the Bahai affair in Baghdad. This affair was an example,which was not yet forgotten, of the annoyance to which the minority was exposed at a time when the British authorities were still in a position to make their influence felt.

It was said that a Special Committee which had been instructed to examine the case in question had come to a decision which appeared to have been satisfactory to both parties. The decision was to expropriate the land on which were situated the buildings of which the Bahais had been unjustly deprived, and to convert the buildings into public dispensaries.

It must be recognised that, if the Bahais were satisfied with the decision reached, they were not difficult to satisfy. The expropriation had led to indemnities and the latter would be paid, not to the victims of the miscarriage of justice, but to those who benefited from judicial decisions which were notoriously biassed.

At the last session the accredited representative had stated that similar occurrences could not now arise. It seemed, however, that the desire to conform with the recommendations of the Council, which should at the moment influence the actions of the Iraq Government, had not been sufficient to cause it to resist the tendencies of one section of public opinion.

Sir Francis Humphrys replied that the house in question had never been formally registered in the name of the Bahais. In the case before the Court there had been some false swearing on both sides. The Court consisted of a British President with two other members, one of whom was a Jew and the other a Sunni Moslem. The British President had thought the decision constituted a miscarriage of justice, and the British Government agreed with that view. The case had created much feeling, not only in Baghdad and elsewhere in Iraq, but also among the Shiahs of Persia. The highest Court in the country had pronounced in favour of the Shiahs by two votes to one. Sir Francis Humphrys asked the Mandates Commission how this decision could be legally reversed, as there was no higher Court in the country. If the Government had ordered the Shiahs to evacuate the property and had returned it to the Bahais, this would have been an illegal act.

Sir Francis Humphrys admitted there had been considerable delay in arriving at a settlement. In the first place, enquiries had been made as to whether this case could be brought before the Permanent Court of International Justice. On this solution proving impracticable, it had subsequently been decided to appoint a Special Committee, with a British judge as Chairman, to suggest a practical solution which would be in accordance with the law. This Committee suggested expropriating for purposes of public benefit, not only this house, but others in the district in connection with a town-planning scheme. It was not the intention that the structure of the house should be interfered with, but only that the necessary internal alterations should be made in order to convert the house into a dispensary. This had satisfied the Bahais as they were willing that the house should be put to some useful purpose.

Sir Francis again pointed out that, as there was no higher Court in the country, any other solution of the question would have been illegal.

M. Orts fully realised the legal difficulties. In his opinion this did not alter the fact that the case was indicative. He would like to know, however, whether the Bahais who had not obtained material satisfaction had at least obtained moral satisfaction.

Sir Francis Humphrys replied that he thought the decision must have given the Bahais some moral satisfaction, since they would have access to the house when it was situated in a public garden. Moreover, they were satisfied with the use of the house as a dispensary, as it would be used for the alleviation of misery to which the Bahai religion attached great importance.

M. Orts asked whether it could not be decided that no change should be made in the arrangement of the buildings which were of sentimental value to the Bahais. Such an assurance would, no doubt, give them moral satisfaction.

Sir Francis Humphrys repeated that the intention was that the building should remain, only internal changes being made for the purpose of its conversion into a dispensary.

M. Rappard supposed, with regard to the question of moral satisfaction that it could not be expected that the Bahais would be satisfied before the solution prepared by the Government was finally adopted. But it was too soon for them to feel this satisfaction, as the funds had not yet been voted by Parliament.

The Bahai case was, however, not only a regrettable incident. Had it not a more general significance ? An injustice had been committed which would doubtless have been avoided if the mandatory Power had maintained greater control. If the mandatory Power had previously withdrawn from Iraq, as it now proposed to do, the injustice would not even have come to the notice of the League. The Commission was now asked to approve the withdrawal of the mandatory Power. Was this not a very serious responsibility ?

Sir Francis Humphrys did not understand how the Mandatory Power could have intervened in a judicial matter, or why there should be less likelihood of such cases being brought to notice in future.

M. Rappard replied that there would be no possibility of appeal to the League.

Sir Francis Humphrys supposed that a case might occasionally happen in other countries that the ownership of property in dispute might be awarded to the wrong person.

This was the only case in eleven years in which the justice of a decision by the Iraqi Courts had been questioned by His Majesty's Government.

M. Van Rees asked whether there was a sentiment of hostility towards the Bahais in Iraq which might lead them to feel that they were in constant danger. He asked whether the judgment of the High Court reflected this sentiment of hostility or was merely a miscarriage of justice.

Sir Francis Humphrys replied that he knew of no cases where Bahais were apprehensive for their safety. In the present case he thought the action was taken merely to obtain possession of the property and was not particularly directed against the Bahais.

M. Van Rees explained that he had asked this question, as he had heard that the Bahais felt themselves to be menaced.

Sir Francis Humphrys replied that he had no knowledge of it.

Anglo-Iraqi Relations after the Cessation of the Mandate: Maintenance of public Order.

Lord Lugard said he found himself in difficulty regarding certain phrases in the report. On page 16 it was stated that the most important point in the Council Resolution of September 1924 " was the definite acceptance of the fact that the admission of Iraq to membership of the League would terminate the mandatory obligations of His Majesty's Government ". It was stated on page 287 that " there was every reason to believe that the Iraqi Government would be prepared in 1932 to give similar guarantees to those given by certain other States admitted to membership of the League, within the last few years ". The accredited representative had referred in his statement to page 30 of the special report, on which it was frankly stated that cases had occurred where individual Iraqi officials had proved themselves unworthy of their responsibility.

Lord Lugard pointed out that the Commission was not concerned with the conditions under which Iraq might enter the League of Nations, but only whether she could stand alone and fulfil the conditions required of a civilised State, including Article 5 of the Treaty, in respect of the maintenance of internal order. Iraq had undertaken this responsibility in the Military Agreement from August 1928, but in fact it had been shared by the mandatory Power. The Mandatory undertook to retain troops in the country for five years.

Lord Lugard asked the accredited representative's opinion upon the position thus created which, to his mind, presented real difficulties. By retaining troops in the country, His Majesty's Government could not avoid responsibility for the use to which they were put. Hitherto the High Commissioner had received information from British officers in frontier districts, who were in a position fully to explain the causes of the demand for military action. The majority of these officers were now, he understood, to be withdrawn. The Commission had heard from the High Commissioner yesterday that the number of British and Indian officials had again been reduced by thirty-two. In future, the British Ambassador would have no such sources of information and a

serious danger might arise that he would have insufficient information as to the purpose for which troops were demanded. Would this not place him in a very difficult situation, for if he were doubtful whether the demand arose from local misgovernment or racial feeling on the part of provincial officials—not of the Central Government—and he refused to comply, he would be accused of responsibility if serious trouble resulted. It had been suggested by the Teleki-Laidoner Commission that this difficulty might be avoided if Iraq consented to the appointment of a League Commissioner to see that the Government carried out its guarantees for the proper treatment of minorities. But even if such a Commissioner were appointed, would he possess effective means of obtaining information and would not the appointment of a League Commissioner be an admission that Iraq could not stand alone ? He would not be in a position to obtain full information, unless he had officials on the frontiers.

If, on the other hand, the British Government accepted full responsibility in respect of guarantees for minorities, he enquired how this could be done in practice without independent and reliable sources of information, and how Iraq could be said to stand alone if the responsibility rested on a foreign Government. In a letter from the Foreign Office regarding a Kurdish petition it was stated on the withdrawal of the mandate, if he recollected aright, that the Mandatory would be no more responsible than any other foreign Power.

Lord Lugard asked whether the Iraq Government had undertaken to retain in the frontier districts the British officials who had hitherto supplied the information. This might meet the case, if such officials were given opportunities of acquiring information.

Sir Francis HUMPHRYS said he was somewhat surprised that it could be thought that His Majesty's Government would contemplate negotiating a treaty which would place its Ambassador in the humiliating position described by Lord Lugard. Steps would be taken to ensure that the British authorities would never authorise action without being in full possession of the facts. Before negotiating the treaty the British Government had considered the circumstances to which Lord Lugard had referred. The new Treaty contained no obligation to assist the Iraq Government to suppress internal disorder; and in the unlikely event of such assistance being invited, the British Government would be under no obligation to supply it. It would never agree to give assistance by means of the Royal Air Force until it was satisfied that such assistance was justified, having regard to all the circumstances. It was clear to him that a League Commissioner was not the proper authority to decide whether British forces should be employed or not.

Sir Francis Humphrys said he had not quite understood Lord Lugard's remark regarding the responsibility for internal order continuing for five years.

Lord LUGARD said he had referred to the maintenance of troops for five years.

Sir Francis HUMPHRYS said the British Air Force would be maintained in Iraq for twenty-five years, but this did not affect the fact that the responsibility of His Majesty's Government in regard to the maintenance of internal order would cease on the entry into force of the Treaty. The true function of the Royal Air Force in Iraq was described in Article 5 of the Treaty.

Lord LUGARD thanked Sir Francis Humphrys for his information. He was glad of the assurance given by the High Commissioner that the British Government would rely upon its own judgment.

M. MERLIN said that, as he understood the position, certain troops were to remain in Iraq until the cessation of the mandate but were not to be at the disposal of the Iraq Government for the maintenance of internal order. They were to constitute in some sort a garrison against external aggression. Supposing, in the event of such external aggression, they were to be called upon to take action, by whose order (he asked) would they take action ? At the order of the Iraqi Government, or of the British authorities ?

Sir Francis HUMPHRYS explained that the British Air Force would be there for the reason that Iraq had asked for and obtained an alliance with Great Britain. It would be there at the charge of Great Britain, and would be under the orders of its own commanding officer.

But he must repeat with regard to the question of internal disturbances that under the Treaty the obligation for the maintenance of internal order in the country rested entirely with the Kingdom of Iraq.

Count DE PENHA GARCIA asked whether, if the British troops left in Iraq after the cessation of the mandate were only to guarantee external defence and not to maintain internal order, the High Commissioner was satisfied that the Iraqi Administration was capable of maintaining order. Was there no danger of excesses against the minorities, for example ?

Sir Francis HUMPHRYS said they certainly all hoped that the Iraq Government would be able to quell any internal disorder that might arise, whether by negotiation or force of arms, or by a combination of both.

He could not, of course, guarantee that, if a minority were to rebel, Iraq would not use all the forces at its command to suppress the rebellion, but perhaps he had not rightly understood Count de Penha Garcia's question.

Count DE PENHA GARCIA said that his question related only to the general ability of the Iraq Government to maintain internal order without violence or bias. He noted certain criticisms in the report itself as to the police. There was, for example, a reference on page 60 to the possibility of political interference with the police force. It was this aspect of the problem he wished to clear up.

Sir Francis HUMPHRYS replied that the Iraq police were a very fine force of which all Iraqis were justly proud. If he had made mention of the possibility of political interference with the police, it was merely in order to give a perfectly frank picture of the position. He might, however, refer Count de Penha Garcia to the last sentence of the section in question (page 61) in which the position was summed up in the following words: " Apart from these criticisms, the state of the police may be regarded as highly satisfactory, and the great progress made in the past 10 years is a hopeful augury of the future ". The British advisers concerned were optimistic with regard to the future of the police. It was, he thought, well up to the standard of the best police force he had seen in any oriental country.

As regards the army, the troops had not been subjected to any serious test in the field until the recent rebellion of Shaikh Mahmud, when they did extremely well, as was stated in the report.

Unless some unforeseen and exceptional situation arose, he could see no reason why the Iraqi forces should not be able to maintain internal order unaided.

M. RAPPARD said that the story of Anglo-Iraqi relations in the last ten years was an extremely interesting record of the gradual withdrawal by the mandatory Power in successive stages (in 1922, 1926, 1927, and again in 1929) in deference to Iraqi aspirations. It was a very remarkable episode in the history of liberty; and, as the citizen of a small State, he welcomed this unusual instance of voluntary concessions by the stronger to the weaker party.

But if, in a dependent Iraq with British troops on the spot, the British authorities had felt compelled to give way, rather more rapidly and completely, it would seem, than they had themselves desired, what would be the position of the British authorities in an independent Iraq ? How would they be able to maintain their position in negotiations ?

Sir Francis HUMPHRYS asked in what negotiations ?

M. RAPPARD replied that he referred, for example, to negotiations concerning the appointment of British advisers between the commanding officer of the British troops and the Iraq Government in the case of internal disorders, and the like.

Sir Francis HUMPHRYS referred M. Rappard to the second paragraph on page 10 of the report, in which the aim and policy of His Majesty's Government were succinctly summarised.

If the British Government had taken any other line than it had, how would the Iraqi officials have been able to learn to govern ? If it had kept a tight hand up to the very moment of recommending the cessation of the mandate, the transference of authority to the Iraqis would have been impossibly abrupt.

He assured the Commission that the line taken had not been actuated by any spirit of *laisser faire* or inertia. There had been the very closest touch throughout between the High Commissioner on the one hand and the King and His Ministers on the other.

He assured M. Rappard that neither King Feisal nor his Ministers would ever describe the history of the past ten years as a period of concessions on the part of the British.

M. RAPPARD said he had rather the impression of a rearguard action fought by the British authorities. As he understood him, Sir Francis's view was that negotiations between the two countries would be easier when once they were on an equal footing.

Sir Francis HUMPHRYS assented.

M. RAPPARD drew attention to the remark on page 11 of the report that " on the part of all responsible Iraqis there had been from the first a marked impatience of mandatory control and a fervent desire for independence ".

What was meant by " responsible Iraqis " ? Was freedom demanded only by a small intelligentsia or a deep-seated popular movement ?

Sir Francis HUMPHRYS said there was a growing intelligentsia who were acutely conscious of the distinction between mandatory control and treaty relations.

The difficulty of Iraqi Ministers was the attitude of the Parliament in regard to the mandatory regime. The Government fully recognised the position, but the same could not be said generally speaking of the Parliament, where the word " mandate " was never uttered.

The uneducated classes of the population had no conception of what a mandate was, or how it differed from a treaty.

BRITISH ADVICE AND ASSISTANCE IN ADMINISTRATIVE AND LEGISLATIVE MATTERS.

Count DE PENHA GARCIA aksed for information on the statement on page 28 of the report that " of the 439 resolutions passed by the Iraqi Cabinet since that date (January 1930), on only 38 or less than 9 per cent has the High Commissioner found it necessary to comment ".

Sir Francis HUMPHRYS explained that these " resolutions " included administrative decisions of the Cabinet.

It might be of interest if he explained the process of legislation.

In the first place, there would be a resolution by the Cabinet, which would be sent to him for comments. The subject of the resolution might, or might not, have been discussed with him previously; and he might or might not have amendments to suggest. After passing through Parliament, the Bill would require the assent of the King which was not given until the High Commissioner had had an opportunity of commenting upon any amendments made during its passage through Parliament.

He mentioned that 137 Bills were passed in the last session of Parliament alone. He thought the Commission would agree that for him to have commented upon only 38 resolutions out of the 439 which had been passed in the course of a year, including administrative decisions, showed in how small a percentage of cases advice had been offered.

STANDARD OF QUALIFICATIONS OF IRAQI OFFICIALS.

Count DE PENHA GARCIA asked if it had often been necessary, in order to secure the satisfactory working of the new regime, to adopt disciplinary measures against Iraqi officials during the period from 1929 to the present time.

Sir Francis HUMPHRYS replied that such cases had not been frequent; but there was a State Officials' Discipline Law in existence and the Iraqi Government had recently amended it with the object of weeding out inefficient unsatisfactory officials, some of them a legacy from the pre-war regime.

The Iraqi Government was fully aware that, as its responsibilities increased with the withdrawal of British officials, it was increasingly important for it to have only the best officials in the districts.

RELATIONS BETWEEN THE IRAQ GOVERNMENT AND THE HEJAZ-NEJD GOVERNMENT.

M. RAPPARD asked whether the differences with the Hejaz and Nejd Government in regard to the desert posts had been settled (page 36 of the report).

Sir Francis HUMPHRYS replied that, during the Conference on board H. M. S. *Lupin* between King Feisal and King Abdul Aziz al Sa'ud, the two monarchs had agreed to exchange identical notes providing for: (*a*) the maintenance of the *status quo*; (*b*) an agreement on the part of both Governments to attempt a settlement of the question during the next six months; (*c*) in the event of no settlement being reached, the appointment of two arbitrators by each party with a fifth arbitrator to be appointed by the British Government.

As the result of the Iraqi Prime Minister's visit to Mecca in April the period of six months had been extended, and it appeared unlikely that this matter would give rise to further difficulties.

M. RAPPARD thanked Sir Francis Humphrys for the information. He thought the episode was a gratifying testimony to the value of British influence. If the two Kings were only with difficulty able to reach an agreement in the presence of the British High Commissioner and on the deck of a British warship, what would happen when they were face to face, standing alone in the desert ?

Sir Francis HUMPHRYS replied that the question of the desert posts had really been solved on board the *Lupin* by the acceptance of a fifth neutral arbitrator, and he saw no reason why a similar solution should not be reached in the event of future disputes of the same nature between the two countries.

He reminded the Commission that, as stated in the report, all outstanding questions between Iraq and Hejaz-Nejd had now been settled.

DELIMITATION OF THE FRONTIER BETWEEN IRAQ AND SYRIA.

Lord LUGARD called attention to the statement in the first paragraph of section 4, on page 36 of the special report, to the effect that the divergence of opinion between the French Government, on the one hand, and His Majesty's Government and the Iraqi Government, on the other, on various points connected with the definition of the frontier was still unsettled.

Sir Francis HUMPHRYS replied that a proposal had been made that the League of Nations should be asked to take steps to define and delimit this frontier.

EIGHTEENTH MEETING

Held on Friday, June 19th, 1931, at 4 p.m.

Iraq: Examination of the Special Report on the Progress of Iraq during the Period 1920-1931 (continuation).

Sir Francis Humphrys, Major H. W. Young, Mr. R. V. Vernon and Mr. T. H. Hall came to the table of the Commission.

Future Relations between the Iraq Government and the Representative of the British Government at Baghdad.

The Chairman understood that Sir Francis Humphrys wished to make a statement.

Sir Francis Humphrys wished to make clear one point to which he had referred at the last meeting. He hoped that nothing he had said would convey the impression that it would only be the prestige and influence of the British representative at Baghdad that would save Iraq from mistakes and misfortunes in the future. That was certainly not the impression which His Majesty's Government wished to convey in its report.

The Chairman wished to emphasise that, in his view, the maintenance of good relations with the British representative would most undoubtedly tend to increase the strength and authority of the Iraqi Government. It was clear that it would always be to the interest of Iraq to remain on good terms with the representative of the ex-mandatory Power.

Sir Francis Humphrys was very grateful to the Chairman for his explanation.

Recognition of the Iraq Government by Other States.

The Chairman, referring to paragraph 5 on page 37 of the special report: " Relations with Other Foreign States ", noted that the Iraqi Government had been formally recognised by the Governments of certain countries. He enquired whether the recognition was *de facto* or *de jure*, and whether it had taken place before or after the Treaty of 1930.

Sir Francis Humphrys replied that foreign States had been informed that the request for King Feisal's *exequatur* would imply *de jure* recognition. His impression was that the recognition of the Iraqi Government by the States in question had taken place before the 1930 Treaty, and that it had been entirely spontaneous.

Commercial Relations of Iraq with Other States.

M. Ruppel said that he would be glad to have information concerning the commercial relations of Iraq with her neighbours. The special report spoke only of a provisional Treaty with Persia which would terminate this year.

Sir Francis Humphrys replied that the arrangement with Persia had been extended for a further period of six months, and, as an Iraqi had now been posted to Teheran as Minister, he would presumably conclude the negotiations for a final arrangement. A Treaty had been signed with Trans-Jordan and ratified about two months previously: it was, however, a treaty of friendship and not a commercial treaty. A commercial treaty with Turkey was being negotiated.

The accredited representative stated, in reply to a further question by M. Ruppel concerning the treatment at present accorded to Turkey, that there was no discrimination, Turkey being treated in commercial matters on the same basis as States Members of the League. It would be for every country to negotiate its own commercial arrangements to take effect when Iraq became a Member of the League.

Question of the Political Maturity of Iraq and the Situation of the Minorities.

M. Orts said that he would be glad to have the British Government's views on one very important aspect of the question now before the Commission. On page 10 of the special report it was said that His Majesty's Government had never regarded the attainment of an ideal standard of organisation and stability as a necessary condition of the termination of the mandatory regime. The report went on to say that the aim of the British Government had been to set up, within fixed frontiers, a self-governing State enjoying friendly relations with neighbouring States and equipped

with stable legislative, judicial and administrative systems and all the working machinery of a civilised Government. This conception of the mission of the Mandatory and the conditions necessary for terminating the mandate could be accepted without reservation.

The British Government had shown with legitimate pride that Iraq now possessed all the machinery of a civilised Government and deduced from that that the country was henceforth capable of self-government, without waiting to be in a position to challenge comparison with the most highly developed and most civilised countries. Was it sufficient, however, for a country to present externally the appearance of an organised State to conclude from that that it had attained political maturity ?

That Iraq possessed all the political and administrative machinery of a State and that in its Constitution were embodied the principles on which the majority of modern Constitutions were based were facts which the Mandates Commission could affirm, seeing that they were within its field of observation. It still remained to know whether there existed in the country that spirit which animated these institutions and was the essential condition for their working. This was a point on which the Commission could not itself form an opinion, since it lay outside its field of observation.

So far as this question was concerned, it must rely entirely on the mandatory Power which had been intimately associated with the political, moral and social evolution of Iraq. If the mandatory Power attested that Iraq could stand alone, it guaranteed that the public spirit, the political morality had progressed at the same rate as the organisation. Was it clearly understodo that in the case of Iraq Great Britain took that responsibility ?

The accredited representative knew how anxious the Commission was about the future of the minorities, and M. Orts desired to lay stress on the fact that it was, above all, this anxiety which had led him to ask the question. Twelve years ago Iraq had been included among the countries whose existence as an independent nation had only been provisionally recognised on condition that they were guided by a Mandatory. One of the reasons why Iraq was refused complete independence was that it was not yet considered to possess that spirit of tolerance which made it possible to place in its charge, without any apprehension, the fate of the racial and religious minorities established in the territories accorded to the country.

Sir Francis Humphrys thought that he could best reply to M. Orts' observations concerning the spirit which should prevail in Iraq by asking the Commission to glance at paragraph I : " Anglo-Iraqi Relations " on pages 11-12 of the special report.

As regards tolerance, he might say, realising the heavy responsibility which lay on him, that he could assure the Commission that, in his thirty years' experience of Mohammedan countries, he had never found such tolerance of other races and religions as in Iraq. He attributed this partly to the fact that Moslems, Jews and Christians had been used to living amicably together in the same villages for centuries. The present rulers of Iraq had, until the last twelve years, formed a minority themselves, and had every reason now to feel sympathy for fellow minorities. One of the chief difficulties in regard to the Assyrians was the constant influx of refugees from Turkey, Russia and Persia. If these immigrants had really felt that the Moslems in Iraq were intolerant, it was hardly conceivable that they should come into the country as they did.

His Majesty's Government, he declared, fully realised its responsibility in recommending that Iraq whould be admitted to the League, which was, in its view, the only legal way of terminating the mandate. Should Iraq prove herself unworthy of the confidence which had been placed in her, the moral responsibility must rest with His Majesty's Government, which would not attempt to transfer it to the Mandates Commission.

M. Orts expressed himself as completely satisfied with this declaration on the part of the accredited representative which was perhaps the most important that had been made during this present examination of the situation in Iraq.

Sir Francis Humphrys, in reply to the request submitted by M. Orts at a previous meeting, proceeded to give the Commission information concerning certain persons whose signatures appeared in connection with the Rassam petition.

He explained that one of the petitioners, living as he did in the neighbourhood of the frontier, had every reason to be apprehensive of raids from Turkey, as the Turkish posts on the frontier had now been abandoned. Representations were being made with a view to inducing the Turkish Government to re-establish those posts in view of the danger to which Iraqi subjects were exposed. The situation, he thought, did not reflect on the Iraqi Government: in the case of the recent murder of seven Christians by Turkish bandits, the Iraqi Minister of Defence had, on his own initiative, immediately sent two companies of Iraqi infantry to reinforce the frontier troops.

With regard to certain Yezidi complaints, he explained that this community was torn by dissension as to who should be its spiritual head. It was an entirely domestic affair of the Yezidis. The accredited representative had told the Yezidi chiefs that the only solution was for them to elect a Spiritual Council, and to let them decide the question.

The accredited representative stated, in reply to the Chairman, that the Yezidis numbered about 36,000.

M. Rappard observed that, as regards the intangible element of public spirit, of which M. Orts had spoken, the Commission, as M. Orts had said, could but rely on the reply of the accredited representative. The latter's statement itself had been most impressive, both on account of its strong wording and of its obvious sincerity. The reasons quoted by the accredited

representative, however, as an explanation of his optimism were perhaps less convincing. He believed that tolerance would prevail because the various elements of the population had long been living happily together. Might not the circumstances of modern life and the rise of Arab nationalism alter that situation ? Again, the fact of the present Government being composed of a former minority under Turkish rule did not necessarily seem to imply a guarantee for other minorities. The lessons of the Balkans were hardly reassuring in this respect. On a third point also—the conclusions drawn from the fact that the Assyrians were flocking into Iraq—M. Rappard had two doubts: had they not been attracted by the hope of British protection ? Furthermore, they had come from countries such as Turkey and Russia, so that their choice might be merely a choice of evils. Even if Iraq under British protection was a better home for victims of intolerance than Turkey and Russia, it did not seem to follow that Iraq without British protection was a good home for such victims.

M. Rappard felt that the reasons given by the accredited representative in support of his statement might not appear entirely convincing to other people. He wished to repeat, however, that he personally had been much impressed by the statement itself.

The Chairman expressed his appreciation of M. Orts' observations and of M. Rappard's comments on Sir Francis Humphrys' speech. In view of the very clear statement made by the mandatory Power, he felt that there remained very little for the Mandates Commission to ask, the more so as, under the terms of Article 22 of the Covenant, the Mandatory was the Commission's only medium for obtaining information.

The Chairman proposed that each member of the Commission should decide what further particulars, if any, were required to supplement the information given in the special report and in the accredited representative's statement.

M. Rappard said that he attached the greatest importance to the accredited representative's statement. He felt, however, that the fact of having heard that statement did not absolve the Commission from the duty of asking questions, in deference both to the mandatory Power and to the League.

M. Merlin agreed with the Chairman that there was no need to go into very minute details. He thought that it would be well to follow the subject order at the beginning of the special report, but without delaying unnecessarily, always bearing in mind that the real object of the present study was to determine whether Iraq was ready to stand alone. The accredited representative's declaration, bearing all the weight of his authority, had followed logically from the special report. It was clear that the British Government realised to the full its legal and moral responsibility in the matter.

Military Organisation.

The Chairman wished to ask one question, concerning the Assyrians who constituted the greater part of the army in Iraq. Had they become Iraqi nationals, or did they still possess the status of refugees ?

Sir Francis Humphrys replied that many of them had registered as Iraqi subjects, while many on the other hand had not done so. There was a growing tendency to register. Those who were former Ottoman subjects and fulfilled the conditions had of course automatically become Iraqis under the Treaty of Lausanne.

M. Sakenobe, referring to a very important statement made by Sir Francis Humphrys at the morning session, relating to the military clauses of the new Treaty, said that he wished to ask a question concerning the army.

One of the national aspirations of the Iraqi had been to possess a national army capable of maintaining internal order and peace and of defending the frontiers. It had been decided in March 1921 that steps should be taken to raise an army of 15,000 and that the British forces should be progressively reduced as the Iraqi army grew in strength and efficiency. That programme had been steadily pursued, and by the end of 1924 there had been three regiments of cavalry, six battalions of infantry, two mountain batteries and one field battery. From 1924 to 1930 efforts had been directed mainly towards the consolidation of the army rather than towards its expansion. The organisation programme had been partially carried out up to 1930, but it was still far short of the original programme of 1921. He enquired whether, with the conclusion of the Military Agreement, there had been any change in the military programme.

Sir Francis Humphrys said that he could not give the exact figures. The present strength of the army was in the neighbourhood of 10,000 men. Of recent years its mobility had been greatly increased through some of the units having been mechanised. The Cabinet had just approved the formation of a new battalion.

No doubt the failure to fulfil the programme of an army of 15,000 had been due to a reluctance to spend. The majority in Parliament had always been in favour of productive outlay on roads and similar works rather than of expenditure on the army. The exigencies of finance had thus prevented the completion of the original programme. It was only after the signing of the Oil Convention, which would bring in an additional £400,000 income per annum

that the new battalion had been sanctioned. He thought it probable that with the next few years further additions would be made.

M. SAKENOBE raised the question of the efficiency of the army. He referred to a passage in the report describing the operations against Shaikh Mahmud and the part played by Iraqi troops. Again, there was a passage relating to the value of the Iraqi army in the field, which read:

> " The general opinion of impartial observers during the campaign was that there had been a remarkable advance in efficiency in the last few years; that the officers, though still somewhat lacking in energy and resource, were improving."

He trusted that the lack of energy and resource referred to was due to want of experience and self-confidence—both of which could be remedied—but not to any natural defect.

M. Sakenobe did not wish to press the point, if the Chairman thought that it could more properly be taken when examining the annual report in November. His purpose was to ascertain whether the army was fit to defend the country. Was the accredited representative of that opinion ?

The CHAIRMAN recognised the importance of the question asked by M. Sakenobe but, seeing that the latter did not mind whether he received a reply immediately or at the next session, he asked M. Sakenobe to be good enough to wait till November.

M. RAPPARD said he would be glad to know what measure of confidence could be placed in the army.

He referred to a decision mentioned in the special report, concerning the organisation of the army: " The English system of organisation and training was, however, to be adopted, and all Iraqi officers had therefore to be passed through a military school under British instructors ". Had that been decided by the Iraqis themselves, or was it the result of advice given with some insistence by the Mandatory ?

Again, with reference to the further activities of Shaikh Mahmud, it was stated on page 43 of the special report that the column sent to reoccupy Sulaimaniya, after the town had been abandoned by the rebels, " consisted of Iraqi troops and police and armoured cars ". He suggested that the fact of having reoccupied the town after it had been abandoned was not a very heroic exploit.

Sir Francis HUMPHRYS observed that the first point concerning which he was asked to reply related to a state of affairs existing in 1921. Since then there had been a British Military Mission. Under the new Treaty, the Iraqi had expressed their intention of continuing that state of affairs; they probably preferred something they knew to something they did not know.

The passage on page 43 had not been drafted with the intention of depicting a heroic exploit, but merely with the idea of showing the disposition of the forces. Sulaimaniya had formerly been occupied by the British. It was the key to the situation, and the fact of making it over to the Iraqi forces in 1924 had been a proof of confidence in their ability to defend a place of great tactical importance.

Lord LUGARD asked whether the Assyrians and Kurds were willing to serve under Iraqi officers.

Sir Francis HUMPHRYS replied that many Kurds and Assyrians were actually serving willingly under Arab officers in the Iraqi army and police.

ADMINISTRATIVE AND MUNICIPAL ORGANISATION.

M. RAPPARD referred to page 54 of the special report. He presumed that the municipal organisation was on the old Turkish system and based on the French model. He asked whether the co-operation between the Central Government and the local representatives was satisfactory and whether the system promised to work well without British advisers.

Sir Francis HUMPHRYS replied that the old Turkish system was still in use, and had always worked smoothly. At the present time there were British municipal advisers.

The CHAIRMAN remarked that, under the old Turkish system, the Minister of Public Works had to sanction and approve the public works of the municipalities. He asked if that was the case in Iraq.

Sir Francis HUMPHRYS replied that that had originally been so, but in practice the municipalities were gradually being released from this control and being allowed to place contracts themselves.

The CHAIRMAN asked if that was not rather dangerous and if it would not be better for an English adviser from the Ministry of Public Works to participate in these contracts rather than to leave them to the mayors of small towns.

Sir Francis HUMPHRYS said that the advice of the experts of the Ministry of Public Works was always available. The municipalities were becoming independent but had the benefit of advice from the Ministry.

The CHAIRMAN wondered whether the danger to which he had referred would not be still greater when the mandatory Power withdrew.

Sir Francis HUMPHRYS said that the municipalities were at present only independent in respect of minor works. For large works, such as bridge construction, when the municipalities required Government financial assistance, the contracts were placed by the Government. He saw no danger in the encouragement of some measure of local self-government but, on the contrary, felt that it was a healthy development.

Count DE PENHA GARCIA understood that the administrative system was based on the old Turkish model, that was to say, that it was a regime of centralisation of which the corner-stone was the Minister of the Interior. The officials who directed affairs were chosen by the Minister of the Interior and had wide powers. Further, there was an Administrative Council in each liwa with a certain number of elected members. There were also elected municipal councils of which the mayors were appointed by the Mutasarrif. This was, he thought, an acceptable system, in so far as it prepared the way for further development. He understood that the Mutasarrifs were appointed by the Minister of the Interior and that they appointed the mayors subject to the approval of the Minister. He asked whether these officials were changed when there was a change in the Ministry and whether good relations existed between the elected members of the Councils and those who were appointed by the Minister of the Interior or by the Mutasarrifs.

Sir Francis HUMPHRYS said the Mutasarrifs could only be removed by the King on the advice of his Ministers. He thought the mayors could be removed by the Ministry of the Interior, but they did not change automatically with a change of Government.

COMPOSITION AND ACTIVITIES OF THE POLICE FORCE.

M. RUPPEL noted the statements on page 58 of the report regarding the relative state of security as compared with ten years previously. He asked why nothing was said about the large number of murders. The annual report for 1929 gave the figure as 1,025 as against 700 in the previous year. This did not indicate that the relative increase in security mentioned in the report had really taken place. In 1929 there had been only 10 death sentences in respect of over 1,000 murders. He thought the police should take more active steps and the courts should give stricter sentences.

Sir Francis HUMPHRYS did not think the police could fairly be criticised for the number of cases of homicide. In point of fact the number of murders in 1930 had declined by 56.

M. RAPPARD noted that there was a disproportionately large number of Kurds in the police force. He asked if that was due to spontaneous enlistment or to encouragement by the authorities.

Sir Francis HUMPHRYS said the Kurds made good policemen, especially in the mountainous districts, and there was a tendency to favour their employment in those regions.

Lord LUGARD asked whether they were used for defensive purposes.

Sir Francis HUMPHRYS said that this was not, of course, their primary function, but in the mountains and on the desert frontier they were sometimes called upon to co-operate with the Iraqi army against raiders.

Lord LUGARD referred to the statement on page 60 of the report that the Mutasarrifs had powers which were in general too liberally interpreted so far as the Police Department was concerned so that certain types of Commandant of Police were prone to lose initiative and tended to become dependent on the head of the liwa even where matters of interior economy were concerned. He asked if there was no danger of the Mutasarrifs acquiring too much power over the police, and if it made no difference whether a local magistrate or the local Commandant of Police was in control.

Sir Francis HUMPHRYS said that this was always a delicate question. The possible danger referred to in the report related not so much to the efficiency of the police as to the balance of departmental responsibility.

PUBLIC HEALTH.

M. RAPPARD asked if the High Commissioner anticipated that the progress made in the development of the Health Service would be maintained after the termination of the mandate.

Sir Francis HUMPHRYS thought the progress would be maintained if from no higher motive than self-interest. The medical service was so much appreciated that any Government would add to its popularity by building new hospitals or dispensaries. The programme recently drawn up for expending the funds received from the Petroleum Company included considerable sums for public health.. For example, it had been decided, on the Government's own initiative, to build hospitals at Mosul and Sulaimaniya.

M. RAPPARD enquired whether these remarks also applied to preventive medicine.

Sir Francis HUMPHRYS replied in the affirmative.

The CHAIRMAN enquired as to the nationality of the staff of the Health Service.

Sir Francis HUMPHRYS pointed out that particulars were given on page 67 of the report.

JUDICIAL ORGANISATION.

M. RUPPEL asked how the British influence over the law courts was secured. Under the new Judicial Agreement there were only nine British judges of whom seven were Presidents of Courts of First Instance, while there were thirty-nine Courts of First Instance, forty-seven Peace Courts and numerous magistrates and Courts of Session. He did not understand what supervision and influence the British judges could exercise outside the seven Courts of First Instance.

Sir Francis HUMPHRYS replied that in future there would be six districts instead of three, with a British President in each district. He read the following passage from a note on the new Judicial Agreement (document C.496.1930.VI):

> " The new judicial agreement will ensure that any case beyond a mere contravention arising in the three vilayets of Basrah, Baghdad and Mosul, in which a foreigner is involved, is certain to be brought to the cognisance of a British judge. It is equally certain that in every grave case involving a foreigner, the British judge would arrange to be on the bench at the trial. With regard to other areas, it is the intention of the Iraq Government to appoint a British judge in any area where circumstances seem to call for his presence. "

M. RUPPEL said he had in mind justice for the Iraqis themselves and not for foreigners. According to the Iraqi Judicial Agreement, the British judges were to secure good jurisdiction also for the native population. He did not see how this could be done in forty courts in which there were only seven British Presidents.

Sir Francis HUMPHRYS explained that he had understood M. Ruppel's question to be influenced by anxiety as to the position of foreigners. He had therefore quoted from a document which was primarily concerned with that question. The intention was that the Iraqis should benefit equally with foreigners from the strengthening of the Judiciary.

The CHAIRMAN asked whether the British judge would not always be in a minority, since there were three judges in each Court. This had happened in the Bahai case.

Sir Francis HUMPHRYS said that this had been the position throughout the period under review, and pointed out that the Bahai case was the only case of a serious miscarriage of justice which had come to light during these eleven years. It was to be hoped that such a case would not occur again.

M. RUPPEL read the following sentence from page 82 of the report:

> " It is proposed that the number of judges of First Instance be increased to six or seven, the country being divided into a corresponding number of judicial districts, each one under the supervision of a British judge who will sit permanently at the headquarters of the district and elsewhere, as occasion may require ."

He asked whether this meant that a new organisation of the judicial system had taken place since last year.

Sir Francis HUMPHRYS replied that it was proposed that the number of districts should be increased, and that in each district there should be a British President. The whole of Iraq was at present divided into three districts, in each of which there was a British judge. It had been found that this number was insufficient, so that it was now to be increased to six, with a British judge in each district.

There was one place which would in future contain a large European population—namely, Kirkuk, on account of the development of the oilfields in that district. In the past there had been practically no Europeans, but there might be a thousand Europeans in Kirkuk within three or four years. A British judge would doubtless be appointed to this district.

M. MERLIN said M. Ruppel's remarks had confirmed his previous views. The Government had a very fine organisation in theory, but it was to be wondered whether it would work well in practice.

The accredited representative had informed the Commission that it was working well and would work still better in future, when the friction resulting from the control of the mandatory Power had been removed.

He was very sorry he could not share that conviction of the accredited representative. He had apprehensions on the subject, which had been strengthened by the Bahai case and other cases connected with Kurds. He noted from page 78 of the report that certain changes in the judicial system were proposed. Again, on page 83, it was said that the advocates were far from competent. He was glad to see that British judges would remain for ten years, as he considered they supplied the surest guarantee of justice. He, like M. Ruppel, considered that, far from being restricted, as was proposed in the 1930 treaty, the number should be increased.

He hoped the High Commissioner was justified in his optimism.

Sir Francis HUMPHRYS reminded the Commission that this new Judicial Agreement, with regard to which he was accused of being an optimist, had been approved by the Council of the League of Nations [1] as appropriate for the mandatory regime. Under the Agreement the High Commissioner had no powers to intervene in the courts of justice. He asked, therefore, how the new judicial regime, which he assumed would still be in force after Iraq had been admitted to the League, would be affected by the termination of mandatory control.

M. MERLIN said he was not referring particularly to the Judicial Agreement. He felt that, in view of the small number of British judges, there was no guarantee that the Courts would give that impartial justice to which the inhabitants of a civilised country were entitled.

The main point of his question was whether these Courts would give impartial justice, not only to Europeans, who were in any case well provided for, but also to the other inhabitants, including the minorities.

Sir Francis HUMPHRYS said that all the circumstances had been fully taken into account when he had negotiated the new Judicial Agreement in the previous year on behalf of his Government. It seemed to offer all the necessary guarantees for the proper administration of justice. After having been approved by the Mandates Commission, it had been referred to the Council of the League which had also approved it. He would not have been a party to negotiating that Agreement if he had not considered it adequate. He did not believe that the Mandates Commission and the Council would have approved it unless they also had considered it satisfactory. He had every hope that the Courts of Iraq would perform their duties in a satisfactory manner.

M. RAPPARD said the question would doubtless be asked in Geneva why the Commission approved of the emancipation of Iraq. The official answer was because Iraq was able to stand alone. If it were asked whether justice would be meted out, the reply would be: "Yes, because the number of foreign judges is to be increased ".

If Iraq were able to stand alone, why whould the number of British judges be increased ? He would like to know what was the proper answer to this question.

Sir Francis HUMPHRYS did not think this was a fair question, unless the previous existence of special privileges belonging to foreigners were taken into consideration. Those special privileges could not be given up without some transitional period. This gave the reason and excuse for instituting a special judicial regime, the object of which was to secure equal and impartial justice for all.

Lord LUGARD asked whether the tribal Majlis would be maintained for the Bedouin tribes and no attempt made to bring them under the Baghdad law courts.

Sir Francis HUMPHRYS replied that he knew of no proposal to alter the system, which was a very useful one for those particular communities.

M. RUPPEL pointed out that the accredited representative had said that the Judicial Agreement would continue after Iraq had been admitted to the League. He thought this was a mistake. The Judicial Agreement would come to an end at the same time as the mandate. When this question had been discussed in November 1930, the accredited representative had declared, however, that the Iraq Government was prepared to guarantee that British judges would remain and to contract undertakings to this effect with the League.

Sir Francis HUMPHRYS replied that the new Judicial Agreement would terminate at the same time as the existing Treaty, which would come to an end when Iraq was admitted to the League. It had, however, always been thought possible, as had been indicated by the accredited representative at the nineteenth session (see page 101 of the Minutes) that the League, on admitting Iraq, might see fit to impose a condition that the regime described in the new Judicial Agreement should be continued for " X " number of years. It would be for the League to determine the value of " X ".

PUBLIC FINANCE.

The CHAIRMAN, on behalf of M. Rappard, who was not present, asked whether the ten years of advice and training given to the people of Iraq justified the High Commissioner in his assurance

---

[1] See Minutes of the sixty-second session of the Council, pages 179 and following.

that they administered in a normal way the resources of the country, without giving cause for attributing to them the reputation of the Oriental peoples for spending money freely.

Sir Francis HUMPHRYS said he could not inform the Commission whether British financial advisers would be maintained by the Iraq Government after it had achieved independence. Up to the present, however, the record of the Iraqi Government gave cause for optimism in the sphere of finance. It had shown no tendency to squander money. In fact, it had gone further than some people thought wise in cutting down expenditure in order to pay off amounts due under the Ottoman Debt. He had seen no indication that the Government was likely to rush into expenditure beyond its means.

The CHAIRMAN noted this statement with satisfaction.

SUGGESTED APPOINTMENT OF A RESIDENT REPRESENTATIVE OF THE LEAGUE OF NATIONS IN IRAQ FOR THE PURPOSE OF SUPERVISING THE GUARANTEES AFFORDED TO THE MINORITIES.

Sir Francis HUMPHRYS made the following statement:

The suggestion has been made in certain quarters that a representative of the League of Nations should reside in Iraq who would be charged with the duty of supervising the guarantees afforded to the minorities. In case there is any prospect of this proposal being seriously considered, I should be glad of an opportunity of giving the Commission the views of my Government upon it.

In the first place there is little doubt that such action would be regarded by the Iraqi Government as a derogation of sovereignty, and as an indication that it was not trusted to implement whatever guarantees it might have given. The Iraqi Government would, I think, ask—and in my own opinion it would be perfectly justified in asking—for what reason a predominantly Arab Government was suspected of religious intolerance or of international bad faith. Moslem, Christian and Jew have lived peaceably together in Iraq for centuries, and the appointment of a representative of the League of Nations, as an additional measure, beyond the signing of a minorities declaration would appear to the Iraqi Government as an unnecessary and even a provocative measure. It would serve to perpetuate and emphasise the artificial division which has sprung up during the past year between certain of the minorities in Iraq and their compatriots. It would tend to preserve existing suspicions and might even promote new animosities. His Majesty's Government feels too that the proposal would defeat its own object by keeping. alive a separatist spirit, and that the Iraqi Government might regard it as a move towards eventual separation from Iraq of certain minority elements, and oppose it on that account. The presence of a representative of the League, would encourage the minorities to go to him with every real or imaginary grievance instead of applying to the Iraqi authorities, a practice which is open to the objections which have been pointed out in the special report. The representative of the League would be dependent upon local interpreters for his information, which would necessarily be unreliable and incomplete: his movements, if he moved, would give rise to continual speculation and apprehension among the ignorant, while, if he remained in one place, his presence could not possibly serve any useful purpose.

These are the reasons which lead His Majesty's Government to deprecate this proposal being put forward, and I earnestly trust that they will be taken into careful consideration if the proposal is revived. Nothing would be more unfortunate than to take any step which might have a tendency to prevent the minorities concerned from regarding themselves, or being themselves regarded like the Copts in Egypt, as true citizens of their native State, in which lies the only certain hope of their future welfare.

CLOSE OF THE HEARING.

The CHAIRMAN expressed his admiration for the clear and courageous replies given by the accredited representative, and wished him every success in his work. He assured Sir Francis that the Mandates Commission would do everything in its power to assist him.

Sir Francis HUMPHRYS expressed his gratitude for the unfailing courtesy with which his replies had been received. His sole object had been to reply in the fullest and frankest manner and thus to place at the Commission's disposal such experience as he and his colleagues possessed.

He hoped the Commission would share his belief regarding the fitness of Iraq for full independence, and that the information which had been supplied would be found to justify the proposal of His Majesty's Government that Iraq should be admitted to membership of the League in 1932.

NINETEENTH MEETING

Held on Saturday, June 20th, 1931, at 10.30 a.m.

Petitions rejected as not deserving the Commission's Attention: Report by the Chairman (document C.P.M.1160) (Annex 7).

After discussion, *the Commission took note of the Chairman's report.*

Palestine: Memorandum from the Arab Executive Committee on the British Government's Statement of October 1930, transmitted by the Mandatory Power with its Observations on May 11th, 1931: Report by M. Palacios (document C.P.M.1190) (Annex 11).

Lord LUGARD suggested that the Commission in its report to the Council should be satisfied with a reference to the Minutes.

The Commission agreed.

Iraq: Letter from Mr. A. H. Rassam, Chairman of the Iraq Minorities (Non-Moslem) Rescue Committee: Note by the Vice-Chairman.

M. Van Rees' note was read [1]:

" The Secretariat has handed me a letter dated May 21st, 1931, from Mr. A. H. Rassam, Chairman of the Iraq Minorities (non-Moslem) Rescue Committee, regarding the recent arrest by the Iraq authorities of certain Christian inhabitants of Baghdad and Mosul.

" Mr. Rassam assumes that these arrests are the commencement of a period of reprisals against the spokesmen of the minorities for having championed the cause of their co-religionists. He thinks that the mandatory Power will not feel called upon to intervene in the matter for fear of creating among Arab Nationalists anti-British unrest which might lead the League of Nations to decide that Iraq was not sufficiently advanced to attain to complete independence.

" The purpose of Mr. Rassam's letter, therefore, is not to protest against an alleged improper application of the mandate but against police measures which may have been due to political considerations. Consequently, the letter does not seem to me to constitute a petition.

" Before deciding the point, however, I should like to have my colleagues' views. "

After discussion, *it was agreed*, on the proposal of M. Rappard, *that Mr. A. H. Rassam's letter should be communicated to the members of the Commission.*

Sessions of the Permanent Mandates Commission in 1932.

M. CATASTINI drew the attention of the Commission to the fact that the General Disarmament Conference had been summoned to meet at Geneva on February 2nd, 1932. Although it was impossible to forecast its duration, the Secretary-General had been compelled to make arrangements for a session of several months. It was accordingly proposed to postpone all meetings or conferences, which it was not absolutely essential to hold in 1932. The Secretariat also proposed to try to postpone or advance such meetings as had to be held in 1932, in order as far as possible to prevent their overlapping with the Disarmament Conference.

It was certain that the Conference would sit for several months: but it was not yet known whether its work would be continuous or whether it would be adjourned for one or more intervals.

The Permanent Mandates Commission was clearly entitled to ask that no change should be made in its usual programme, and that the necessary steps should be taken to enable it to hold its sessions in June and November 1932. If these sessions were to be held, steps would, of course, be taken to ensure that the work of the Commission would be carried on: but the central services of the Secretariat, which would have also to deal with the work for the Disarmament Conference, would no doubt only be able to give reduced help. The members of the Commission were aware how much the progress of the work of a session depended on these services.

Further, the comfort of the Commission was also likely to be affected to some extent, and it was not impossible that the members of the Commission might find some difficulty in obtaining accommodation. The Commission might therefore prefer to hold only one session in 1932.

---

[1] Document C.P.M.1170.

M. Catastini hoped that before the November session it would be possible to obtain more accurate information, and that the Commission would then be able to take a decision. He was anxious, however, to suggest at once to the members that they should reserve their rooms in the hotels for the months of June and November 1932.

M. Merlin suggested that, as the Commission would be unable to sit at Geneva during 1932, owing to the Disarmament Conference, another solution would be to meet elsewhere, for example, in Paris. He did not imagine that the services of the Secretariat could object to that solution, since it was precisely those services which raised the material difficulties to which M. Catastini had referred. M. Merlin added that he would decline altogether to accept a proposal that the Commission should sit in some other Swiss canton.

It would not be sufficient for the members of the Commission to reserve at once the rooms they required for next year, since the rooms in question might easily be requisitioned in the interval for delegations.

M. Van Rees thought it premature to discuss the points raised by M. Catastini. It would be preferable to reserve a decision until the November session. Perhaps more exact information would be available at that time.

M. Catastini thought it was out of the question for the Commission to meet outside Geneva. The central services would be almost entirely absorbed by the work for the Conference and could not be divided.

Moreover, the motives of economy by which the Governments of all countries were at present governed must also govern the actions of the League. A session in Paris would involve additional expenditure. Any such solution, therefore, could only be contemplated if some Government were to invite the Commission to meet in its country, at the same time assuming the cost of the additional expenditure which this change of meeting-place would involve.

The Chairman did not think that it was for the Commission to provide for the material arrangements necessary for its meetings. The Commission might accept M. Van Rees' suggestion to postpone its decision until the November session.

The Commission decided to adjourn the discussion to the November session.

Iraq: Examination of the Special Report on the Progress of Iraq during the Period 1920-1931 *(continuation)*: **Form of the Commission's Report to the Council.**

The Chairman did not think that, for the moment, any additional information on the special report concerning Iraq was necessary. The question for the Commission now to consider was how to draft its report to the Council.

He reminded the Commission that it had received a full assurance from the Council, through the mouth of Mr. Henderson, that it would be given all the requisite information with regard to Iraq. The Commission, therefore, was now either in a position to reply, or it still required information on certain points. He thought it was sufficient for the present to say that the Commission had all the information necessary to enable it to form an opinion. There was no question of substance involved in that.

M. Merlin reminded the Commission that the special report was submitted by the mandatory Power with the intention of asking the Commission whether it was sufficiently complete, or whether additional information was required. In this way the Commission would be fully equipped, when considering the annual report in November 1931, to give its opinion to the Council and to say whether Iraq was politically mature. The report to be made on the present occasion was therefore what might be called an interim report, and did not call for any final decision on the part of the Commission. He did not himself think the Commission was in possession of complete information, but that it should wait for the annual report for 1930. If the Commission said at once that Iraq was politically mature, of what use would the annual report for 1930 be?

The Chairman said that the question before the Commission was whether it thought that there were still any omissions to which it should draw attention.

M. Merlin suggested that the Commission should say that the accredited representative had given it a good deal of supplementary information and that it would be in a position to examine the annual report in November 1931.

The Chairman desired to call attention once more to the passages in Mr. Henderson's speech at the fifth meeting of the sixty-second session of the Council.

M. Van Rees felt that, in view of those words, the Commission could certainly say that an examination of the special report had not pointed to the necessity of asking for additional information. On the other hand, as he had already remarked, he did not think the matter could rest there. If the Commission considered that it need not ask for additional information, there was nothing to prevent it from expressing an opinion on the substance of the question, but in such a way that there would be no risk of its thereby sharing a responsibility which did not belong to it.

In his view there was only one authority which could formally declare that Iraq had attained the degree of development which would enable it, in virtue of the fourth paragraph of Article 22 of the Covenant, to claim full independence. That authority was the mandatory Power. It was the mandatory Power alone which could take a decision with full knowledge of the facts. Doubtless, the Mandates Commission would have to consider, in the light of the information put at its disposal, whether this declaration was well founded. But even if it could

affirm that the information given to it contained all the elements for forming an opinion, and convinced it that, in fact, Iraq had attained the ultimate aim of the mandate system, the most that the Commission could say was that, in view of the formal declaration of the mandatory Power and after having carefully examined all the elements submitted to it, it had found no grounds for advising that the mandate for Iraq should not be withdrawn. He saw no reason why the Commission should decide to adjourn until November an announcement in this sense.

Moreover, no matter what information on certain details might be provided in the annual report which the Commission would examine in November, the Commission could never express an opinion which only the mandatory Power was in a position to express, seeing that the former could only base its judgment on written statements and on the declarations made orally by the accredited representative of the mandatory Power. It was for that reason that the mandatory Power must retain full moral responsibility for its declaration.

M. Van Rees added that the Commission had adopted the same procedure in the previous year when it had expressed its opinion on the new Iraqi Judicial Agreement; the Commission had not stated that this Agreement contained all that could be desired, but had merely said that it had found no objection to it and that, in consequence, it would not advise against the approval of the Agreement. To adopt an analogous procedure in the present case would only be the logical consequence of the examination made by the Commission.

The CHAIRMAN pointed out to M. Van Rees that there was no question of expressing an opinion on the question of maturity before the Council had asked the Commission to do so. To adopt any other procedure would be to take the initiative and not to adjourn the question.

M. VAN REES agreed that the Council had not formally invited the Commission to give an opinion on the political maturity of Iraq, but such an invitation was exactly what he desired to anticipate, since the Commission would then have to give a positive reply; in that way the Commission would be saddled with a responsibility which the means of investigation open to it did not permit it to assume. On the other hand, if the Commission refrained from stating categorically that Iraq was mature and confined itself to delaring that its examination of the question had not disclosed to it reasons which would justify a refusal to recognise that maturity, M. Van Rees did not think the Council could consider this declaration premature.

Count DE PENHA GARCIA reminded the Commission that it had spent four meetings discussing with the accredited representative the special report and the situation of Iraq. He himself had pointed out that one essential item of information was lacking—namely, demographical data concerning the changes in the population during the past ten years: that information was very important, as it would assist the Commission in forming its conclusions. Many questions had been left unanswered.

The Commission had of course been given a general reply when the accredited representative had said that the mandatory Power would take full responsibility in regard to the declaration he had made, but Count de Penha Garcia did not think that that was an adequate reply as regards certain of the questions that had been raised. The accredited representative had taken notes, probably in order to think over what had been said in the Commission and to give the necessary replies in the report which would be examined in November. It would therefore be sufficient to explain to the Council what had happened, but, for the time being, the Commission was not required to give a definite reply, in the first place, because it had not been asked to do so, and, secondly, because the elements on which that reply should be based could not be found in the special report.

In conclusion, Count de Penha Garcia did not think that there was any danger in giving a reply at the time when the Commission would be expressly asked to do so. The Commission could postpone its observations on the special report until November, when it would be in a position to benefit from the supplementary information received regarding questions raised during the examination of the special report.

M. RAPPARD pointed out that the Commission had been invited by the Council to give its opinion on the question of the general conditions for the termination of the mandate. After it had obtained that opinion, the Council would formulate its own. How could the Commission express an opinion in regard to Iraq, before the Council had itself decided upon its attitude towards the more general question ?

He suggested that the Commission should adopt a decision as follows:

> " The Commission had occasion during the present session to examine the report of the mandatory Power on the progress of Iraq during the period 1920 to 1931. That examination was particularly important, as the Commission had the benefit of the assistance of Sir Francis Humphrys, the High Commissioner, and of Major H. W. Young, Counsellor to the High Commissioner, who were good enough to supplement the information given in the report.
>
> " The Commission would thus be prepared—so far as it is able in the light of the information at present available under the terms of its rules of procedure—to formulate its attitude at once on the proposal of the mandatory Power with a view to the termination of the mandate over Iraq.
>
> " As soon as the Council had taken a decision on the general conditions to be fulfilled before a mandate could be terminated, the Commission would be prepared to submit to the Council its opinion on the British proposal relating to Iraq, after having examined it in the light of the Council's resolution. "

M. VAN REES could see no connection between the two questions—the expediency of terminating the mandate over Iraq and the general conditions for the termination of a mandate.

It could not be said that it would be impossible for the Mandates Commission to express an opinion on the first question, always in the sense already indicated, without adding the conditions to which Iraq must submit in order to achieve its independence and to be admitted into the League of Nations. Moreover, it must not be forgotten that the Commission would include in the same report to the Council its opinion on the question of the general conditions for the termination of a mandate, so that the Council would have at its disposal all the elements to enable it to take a decision in regard to Iraq.

M. MERLIN expressed the view that, while M. Van Rees' suggestion was inspired by legal considerations, that of M. Rappard was more political in character. M. Van Rees had been right in thinking that the two questions arose independently of one another, but in actual fact they were linked up with one another and the advantage of M. Rappard's suggestion precisely was, that, without formally linking them, it provided the possibility of showing that there existed one point in common. When the Commission was in possession of full information, it might very well introduce in the report on Iraq the words " subject to the general conclusions laid down for the termination of a mandate ".

If the Commission decided that Iraq was now politically mature, that decision might perhaps be adduced in order to give Iraq an independent government, and the obligations which, in M. Merlin's view, should be imposed on any State which had got beyond the stage of the special mandatory regime might be overlooked. The position of such a State was different from that of an independent State applying for admission to the League of Nations. The accredited representative had been very optimistic, but, despite the authority attaching to his opinion, it was only an opinion, and M. Merlin wondered whether the Commission could share his conviction. The members of the Commission were not only jurists but also political administrators; they should reserve their final decision until the November session. When the Commission had concluded its examination of the general conditions for the termination of a mandate and the Council had itself defined its views, the Commission would be better able to give a pertinent opinion without linking the two questions, though showing at the same time that they were co-ordinated.

The CHAIRMAN proposed that M. Rappard's proposal should be distributed to members of the Commission. He requested M. Van Rees also to prepare a text setting forth his views. The discussion would be resumed at the next meeting, on the basis of those two texts.

The Chairman's proposals were adopted.

Nauru: Observations of the Commission.

After an exchange of views, *the Commission adopted its observations regarding Nauru* (Annex 16).

New Guinea: Observations of the Commission.

After an exchange of views, *the Commission adopted its observations concerning New Guinea* (Annex 16).

TWENTIETH MEETING

Held on Monday, June 22nd, 1931, at 10.30 a.m.

Palestine: Convention regulating the Transit of Mineral Oils of the Iraq Petroleum Company, Limited, through Palestine (continuation).

M. ORTS referred to the conflict, to which he had already drawn attention, between Articles IV, V and XVII of the Convention of January 5th, 1931, between the High Commissioner for Palestine and the Iraq Petroleum Company, and Article 18 of the mandate for Palestine.

Article 18 prohibited any discrimination, in matters concerning taxation or in the exercise of industries or professions, in favour of the nationals of any State Member of the League (including companies incorporated under its laws). But these were precisely the advantages which had been granted to the Iraq Petroleum Company.

The latter, it would be said, was a concession-holder, and its case should be judged in the light of the principles applicable to concessions. No doubt the mandate left the mandatory Administration the utmost liberty in regard to concessions; but the whole point was whether the advantages conceded to this company were not precisely those which could not be granted under the terms of the mandate. The second paragraph of Article 18 of the mandate dealt with concessions, and it would be seen that it limited the freedom of the Power granting the concessions. The paragraph was in the following terms:

> " Subject as aforesaid and to the other provisions of this mandate, the Administration of Palestine may, on the advice of the Mandatory, impose such taxes and Customs duties

as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special Customs agreement with any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia."

Did it not follow from this text that no concession could involve derogation from the general principle laid down in the first paragraph of Article 18 ? If that were admitted, the above-mentioned articles of the Convention of January 5th, 1931, conflicted with Article 18 of the mandate. It would then have been open to the mandatory Administration to give the concession-holder any imaginable advantages—for example, a monopoly—but not exemptions from direct or indirect taxation, which the two paragraphs of Article 18 taken together prohibited.

M. Van Rees regretted that he could not agree with M. Orts.

The first paragraph of Article 18 of the mandate for Palestine prohibited the mandatory Power from making any kind of discrimination between its own nationals and those of any foreign State in matters concerning, amongst other things, taxation, commerce or navigation and also Customs duties, both on imports and exports, as well as the exercise of industries or professions. This paragraph did not refer, as did the corresponding provisions of the B mandate and the mandate for Syria and the Lebanon, to *concessions* which were deliberately excluded from the above-mentioned prohibition. This fact had already been pointed out by M. Van Rees at a previous meeting (see page 99).

It followed, therefore, that, as regards *concessions*, the mandatory Power was not required to refrain from any discrimination on the grounds of nationality. It did not follow that it was free to grant concessions *of all kinds* without taking into account the equality of treatment for which provision was made in regard to taxation, trade, Customs duties, etc.

The second paragraph of the same Article 18 required that, " subject as aforesaid and to the other provisions of this mandate ", the Palestine Administration could, amongst other things, "take such steps as it may think best to promote the *development of the natural resources of the country*". If, therefore, these steps consisted in granting *for this purpose* concessions to physical or moral personalities, the conditions under which those concessions were granted must not discriminate as regards fiscal and other matters to which the first paragraph related.

Did this mean that the concession granted to the Iraq Petroleum Co., Ltd., was contrary to the mandate, as M. Orts considered it to be ? M. Van Rees would reply in the negative and for two reasons.

In the first place, the purpose for which this concession had been requested and granted was not the exploitation of some *natural resource* of the country. The oil wells, for the development of which a concession had been granted to the Iraq Petroleum Company, were in Iraq and not in Palestine. The second paragraph of Article 18 of the mandate was not therefore applicable to the concession in question.

Again, this concession had a special character, which also exempted it from the application of the first paragraph of Article 18 of the mandate. This second point called for some explanations.

The character of the enterprise contemplated by the Iraq Petroleum Company in Palestine was clearly indicated, not only in the body of the concession itself, but, above all and in detail, in the fourth paragraph of the preamble, which read as follows:

" Whereas the company, in connection with the exploitation of the Iraq concession, is desirous of laying a pipe-line or pipe-lines from Iraq to a terminal port on the Mediterranean coast, the said pipe-line traversing the territory of Palestine, and for the purposes of this Convention of erecting and maintaining within that territory offices, pumping stations, workshops, stores, storage tanks for oil and water, bridges, residences for employees, rail and tram lines, aerial ropeways or telferage, roads, rolling-stock, overhead or underground cable lines, ferries, road, water and aerial transport, aerodromes, electric cables (whether overhead or underground), telegraph and telephone lines, wireless installations, refineries, tank farms, hospitals power schemes, oil, gas and water lines, either exposed, buried or submerged, and other works (whether of the kind aforesaid or not) appertaining or auxiliary thereto (all of which works are hereinafter collectively included in the expression ' the undertaking ')."

This detailed description of the object of the concession left no doubt that it covered the execution of a vast programme of works which it seemed difficult not to recognise as being of public utility. These works, no doubt, would benefit the company, but it was not conceivable that such a considerable programme should not at the same time benefit the whole country. If the Palestine Administration had decided to carry out itself this programme of works and had accorded to the holder of the concession only the right to utilise them on the payment of certain charges, no one would have dreamt of denying that they were works of public utility. Was the *nature* of these works changed by the fact that a private company bore the expense of carrying them out, with the approval and under the direct supervision—as the concession clearly stated—of the local authorities ? It seemed difficult to support such a theory.

The question whether, within the limits of the mandates system, the application of the provisions embodying the principle of economic equality extended to works of public utility had already been discussed several times by the Commission. It had recently discussed the matter at its sixteenth session on the basis of a report carefully prepared by M. Orts. In that report, after a

close argumentation, the logic of which could not be open to doubt, the Rapporteur developed, amongst others, the theory,[1] on which he laid stress during the discussion, [2] that in organising public works, whether they were important or not, the Administration was not engaging in commerce but was dealing with Governmental affairs, and that, in this domain the principle of economic or commercial equality did not apply either as regards territories under B mandate, in connection with which this exception was specifically made, or as regards territories under A mandate, where this exception was not stated, or at any rate less explicitly.

This theory did not at the time give rise to any objection of principle on the part of the Commission. M. Van Rees himself had definitely accepted it. Moreover, he had on several occasions expressed the same view.

Was it necessary, in order that M. Orts' interpretation might hold good, that the works should be carried out by the Administration itself ? M. Van Rees did not see why that interpretation should become inadmissible if an individual undertook, with the assent of the Administration, the execution of such works, unless the works in question were of benefit only to the individual and unless the territory derived no profit therefrom, which was not so in the present case; this fact was confirmed by the High Commissioner for Palestine in the last preamble of the Convention concluded with the Iraq Petroleum Company.

In view of these arguments, M. Van Rees concluded that this Convention did not in any way infringe the terms of the mandate.

M. Merlin agreed with M. Van Rees. This was undoubtedly a concession for works of public utility. If, instead of a pipe-line, the Iraq Petroleum Company had built a railway for the circulation of tank-cars, there would be no doubt in the mind of anyone on the matter.

He drew the Commission's attention to two points. In the first place, all the material was to be returned to the State on the expiry of the concession, which was a considerable advantage for the State. Secondly, it must not be forgotten that, if the goods to which Article IV related were placed on the local market for consumption in Palestine, or if they were used for purposes other than the purposes of the company, they would become subject retrospectively to the collection of duty. Thirdly, goods imported or exported by the employees of the company for their personal use were not admitted free. There were thus prudent reservations in the concession, and there was no derogation from the principle of economic equality.

The advantages accorded to the concession-holder were legitimate ones, and they would, moreover, be accorded to other concession-holders if the latter were to carry out works of the same kind of equal advantage for the country. There was therefore no prejudice to any other party.

M. Orts replied to M. Van Rees that he entirely agreed that the principle of economic equality did not apply in the case of essential public works. He had developed that argument in a report which was on the agenda of the present session for consideration. But he drew a limited conclusion from that argument, whereas M. Van Rees drew a wide conclusion when he maintained that the mandatory Administration retained complete freedom of action in any case of concessions for essential public works. In his own view, the Mandatory's freedom of action only applied in so far as it was not explicitly restricted in some degree by the terms of the mandate. That appeared to be the case in Palestine, since the introduction of the words, " Subject as aforesaid . . . " at the beginning of the second paragraph of Article 18 was seemingly not unintentional.

If the Committee did not pay heed to these considerations, a precedent would be created. The same privileges might be granted—in many cases, it might be, with more justification than in the present instance—to any other undertaking for public works. There would thus come into being a class of privileged concessionnaires exempt from the ordinary law; and, with the recurrence of such cases, the disregard of the provisions of the mandate would become patent. The contention that the concession in the present instance was exceptional in character should not be admitted.

M. Ruppel agreed with M. Orts. The privileges granted to the holder of the concession were not compatible with the terms of the mandate.

He wished to make three observations concerning the theory put forward by M. Van Rees to the effect that the principle of economic equality would not be infringed in the present case because it did not refer to public works or services and because the general programme contemplated in the concession (pipe-line, railways, roads and ports, should be considered as having the character of public works. In the first place, the exception made in other mandates in respect of public works and essential services did not exist in the mandate for Palestine. Secondly, every reservation must be made as regards the interpretation of this exception. Even if it were admitted that the main principle did not apply to public works, M. Van Rees' argument that the construction of the pipe-line could be considered as a public work did not seem to him to be admissible. The pipe-line would serve to convey from Iraq to the Mediterranean coast the oil produced by the company holding the concession, and the use of the pipe-line would be reserved to the company. As regards the right of the company to construct railways, ports and roads, it was expressly stated in the concession (Articles VII, IX and X) that the accessory works would be exclusively private in character and were not intended for public use.

---

[1] See Minutes of the sixteenth session; in particular, page 196.
[2] See Minutes of same session, page 149.

M. RAPPARD was in entire agreement with M. Ruppel. Here was a British company exploiting for its own advantage the natural resources of Iraq. The company had found it advantageous to bring its pipe-line through Palestine. But, in the concession given it by the mandatory Power, the latter granted it exemption from all the rules of common law, particularly as regards fiscal matters. From outward appearances, therefore, it seemed that it had subordinated the interests of the country under its mandate to the interests of a company of its own nationality. Public opinion could not fail to be impressed by that.

The only possible argument in favour of this exception to the general principles was the argument of the indirect advantages obtainable by the country. It might be contended that, to secure these advantages for Palestine, it had been indispensable to give the privileges in question in return. This was a point of fact on which it was very difficult for the Commission to express an opinion. Nevertheless, it was a question of forming an estimate of the extent of the advantages accruing to Palestine, and of ascertaining whether these advantages could not have been gained under better terms.

Without wishing to take up a definite position in the matter, M. Rappard drew the attention of his colleagues to the necessity for scrupulous care in drafting the observations of the Commission on this point. It would be difficult to approve the attitude of a mandatory Power which overlooked the institutions of the mandated territory in favour of a company of the same nationality as itself, unless such action were dictated primarily in the interest of the mandated territory.

M. ORTS added that the benefits of the concession did not go solely to the concession-holder, who incidentally appeared to have made a good bargain; the concession was also in the direct interest of the mandatory Power. A glance at the map showed that the mandatory Power had marked out a course necessitating an extension of the pipe-line which would appear to be illogical if it were not explained by the anxiety to keep the latter throughout its course within territory subject to the Mandatory's influence. The mandatory Power had wished to connect the oilfields with a point on the Mediterranean coast which was under its own influence.

Undoubtedly, the country itself would derive advantages from these works; but these advantages, however interesting they might be, did not alter the fact that the mandatory Power also derived advantages which, though of a different kind, were of great importance. It was, however, the mandated territory which was paying the whole cost of the scheme, in the form of exemptions from taxation and Customs duties, over a period of seventy years; and this was the unpleasant feature of the scheme.

M. VAN REES pointed out to M. Ruppel that, when the Commission had discussed the question of public works and services, it had raised no objection to the substance of the thesis put forward by M. Orts—namely, that, in principle, public works were the affair of the Government and that, in consequence, the reservation appearing in Article 6 of the B mandate, and which related to these works, should be considered, as M. Orts had explained, as being applicable to the territories under A mandate, although this reservation did not appear again in the A mandate.

M. Van Rees then replied to M. Orts. The latter had recognised that the principle of economic equality did not apply in the case of essential public works, but did not agree that, when it was a question of granting a concession for works of that nature, the mandatory Power retained full liberty. In this connection, M. Van Rees would merely observe that there was nothing to prevent the mandatory Power from arranging for the execution of works of public utility by any organisation subject to its control. If the mandatory Power preserved full liberty when itself carrying out such works precisely because they were works of public utility, it was difficult to see why it lost this liberty when it caused these works to be carried out by a third party, unless the works in question only benefited that party, which was not so in the present case. To contest this conclusion would be equivalent to saying that it was prohibited, for example, when granting a concession to construct a railway line, to grant the holder of the concession the privilege of importing duty free the material necessary for the work.

M. Van Rees wondered also whether it was correct to say that for works to be public works everyone should be able to profit therefrom. He did not think that this could be a determining criterion, seeing that it could not even apply to all public works organised by the Government itself. He recognised that, in the present case, the concession was an exceptional one. It was clear that the use of the pipe-line would be reserved for the Iraq Petroleum Company, but it was nevertheless true that the general programme of work, of which the details were given elsewhere, could not be considered as not being of considerable interest to the territory, apart from the fact that, in the last resort, all these works would eventually belong to the country and serve to complete its economic equipment.

M. RAPPARD, emphasising the exceptional situation accorded to the concessionnaire, directed the Commission's attention to the provisions of Article XXIV under which disputes arising between the concessionnaire and the State would not come within the jurisdiction of the ordinary courts. It was provided that such disputes should be settled by arbitration.

M. MERLIN observed that the Convention constituted the law of the parties, and that practically every Convention nowadays contained an arbitration clause.

The CHAIRMAN believed that the Commission had not reached a unanimous opinion on the question of the non-application of the principle of economic equality to essential public works and services. He said, however, that the Commission would discuss that question again later.

M. MERLIN pointed out to M. Orts that, in the case now under discussion, the Commission was dealing with undertakings and acts *sui generis*. A statement of contract conditions was all very well, but it was so vast that it became impossible to apply ordinary criteria. The undertaking in question concerned, not only the mandatory Power, but the world as a whole; and the question of oil was a matter that went beyond ordinary considerations.

M. Merlin emphasised the point that the agreement concluded in respect of the pipe-line was the natural corollary to the agreement concluded in Iraq for the development of the oil-fields. It was desired to separate these two questions, and to say that Palestine, while deriving no direct advantage, bore the expenses of the operation, in that it obtained no revenue, for example, from Customs duties. It must be realised, however, that Palestine would derive very considerable direct benefit from those works: those benefits had already been mentioned during the discussion. The competition which had arisen in regard to the course to be followed by the pipe-line and the actual division of the latter into two branches were proof that the territories concerned had fully realised the importance of those works from their own standpoint. They had certainly weighed the advantages that they might hope to derive from them and the sacrifices that they must be prepared to make.

The point to be determined, however, was whether the sacrifices agreed to might not be prejudicial to other interests which might invoke the principle of economic equality.

M. Merlin thought that that principle was adequately safeguarded by the levying of duties retrospectively in the event of exempted products being put on the market and by the granting of Customs exemption to local commerce, when the latter supplied the concessionaire with goods.

He thought, therefore, that there would be no injury to the interests of third parties, and that the territory would derive the utmost benefit from the execution of the works in question.

Count DE PENHA GARCIA did not attach any great importance to the nationality of the concessionaire company. He felt, indeed, that petrol was in the hands of international trusts. On the other hand, he thought that a servitude was being temporarily imposed on Palestine. A company established in a foreign territory and developing the resources of this territory required a pipe-line to convey its products through the territory of Palestine. That pipe-line was not to be used by Palestine, but was reserved exclusively for the Iraq Petroleum Company. As a general rule, when one asked for a servitude one was prepared to pay for it. In the particular case under consideration, he did not think that the price paid was adequate. In point of fact, the only benefit accruing to Palestine was that, on the expiry of the Convention—that was to say, seventy years hence—the works effected would revert to the Palestine State. That provision, moreover, was accompanied by a reservation, since it was laid down that, on the expiry of the concession, the High Commissioner should, if the company so wished, give favourable consideration to the extension or renewal of the concession.

There was another possible benefit for the country—namely, the future price of oil. If the price were very low, it would be of real advantage to the inhabitants of the country, but it must not be forgotten that oil prices were fixed by trusts, and that, as regards that particular product, ordinary economic conditions did not apply. The difference in price would result simply from the difference in the cost of transport by tank steamer and transport by the pipe-line. It would amount to very little.

Lastly, there were various indirect advantages. These, however, it was difficult to estimate and, in the Count de Penha Garcia's view, the greater part would accrue to the concessionaire company. To sum up, he very much doubted whether the servitude imposed on Palestine was really set off by equitable compensation, and he had the impression that the concessionnaire company had done a good stroke of business.

Lord LUGARD thought it necessary to distinguish between two main questions. The Commission had to determine, on the one hand, whether the concession was prejudicial to the interests of Palestine and, on the other, whether it would injure the interests of nationals of other countries.

As regards the interests of Palestine, he pointed out that the accredited representative had expressly stated that the concession would be of considerable benefit to the country. Lord Lugard personally shared that view, and found ample justification for his opinion in the keen competition between Syria and Palestine, with a view to ensuring that the pipe-line should pass through their respective territories.

As regards the interests of third parties, reference had been made to the principle of economic equality, but none of the members of the Commission who had spoken had given any clear explanation as to how any other persons would be injured by the concession.

M. RAPPARD pointed out to Lord Lugard that it was not necessary for private interests to be injured; it was enough for the Commission if the principle of economic equality had been violated. He added, moreover, that the other oil producers suffered injury from the co-operation of a mandatory Power with a company of the same nationality, that company being granted advantages which enabled it to reduce the cost price of its products.

In M. Rappard's view, however the most important point was the following: he was not convinced that, in establishing the concession, whereby the concessionaire was accorded very considerable advantages, the High Commissioner had been guided solely by the interests of the territory and not by other considerations. Lord Lugard had referred to the competition between Syria and Palestine with a view to ensuring that the pipe-line should pass through their territory, but M. Rappard wondered whether it was not as much a question of competition between France and Great Britain, who saw the advantage of the pipe-line terminating at a port which was under their influence.

M. RUPPEL directed the attention of M. Van Rees to the fact that he personally had never accepted the extension to A mandate of the reservation made in Article 6 of the B mandate or the interpretation placed by M. Van Rees on that reservation. He would refer again to that point when the Commission discussed M. Orts' report.

M. SAKENOBE said that he had been keenly interested in the discussion that had just taken place. He noted that the question was one which concerned, not only Palestine, but other territories

under mandate. Before giving an opinion, he would like to know the attitude adopted in the other territory concerned.

The CHAIRMAN also expressed the view that, before forming a definite opinion on the subject, the Commission should have some information on the question from the standpoint of Syria. M. de Caix would be in Geneva on the following day. He proposed that the Commission should inform him that the report on Palestine for 1930 contained the text of the Convention concluded on January 5th, 1931; he would ask M. de Caix to be good enough to communicate to the Commission the text of the corresponding convention with Syria.

M. ORTS supported the Chairman's suggestion.

M. CATASTINI observed that the attention of M. de Caix had already been directed to the point in question and that he had promised to communicate the relevant texts.

The Chairman's suggestion was adopted.

TWENTY-FIRST MEETING

Held on Monday, June 22nd, 1931, at 4 p.m.

General Conditions which must be fulfilled before the Mandate Regime can be brought to an End in respect of a Country placed under that Regime *(continuation)*: **Notes by M. Van Rees** (Annex 3 *a*) **and Lord Lugard** (Annex 3 *b*), **and Report by Count de Penha Garcia** (Annex 3 *c*).

The CHAIRMAN suggested that it would be well to take as a basis of discussion M. Van Rees' note, which was the only one of the three documents before the Commission containing conclusions which could be examined by the Commission in connection with the question of the termination of a mandate. This report could be examined in the light of the other two notes.

The Commission had to submit to the Council, not a report, but conclusions as to the conditions which the former regarded as necessary, referring the Council to the Minutes of the session for the various considerations which had led the Commission to form those conclusions. He asked whether Count de Penha Garcia, who had been appointed Rapporteur for the question, agreed that the Commission should discuss M. Van Rees' conclusions, subject, of course, to any possible modifications or additions.

Count DE PENHA GARCIA had thought that the question might be discussed under the following three heads and that the Commission might proceed to establish: (1) The essential conditions to be required for the termination of a mandate; (2) The precautions to be taken at that moment; (3) The procedure to be followed.

After having thus established the order of discussion, he had arrived at the following conclusion on the last page of his report (See Annex 3*c*), page 210).

> " I do not know whether it is necessary to draw up suggestions for the Council in a summarised and precise form according to its request of January 13th, 1930, or whether it would be better to draw its attention to the documents, reports and discussions of the Mandates Commission during its nineteenth and twentieth sessions. "

He foresaw a long discussion and thought that the Commission, not reaching unanimous conclusions, would be obliged to submit to the Council the various points of view represented in the Commission, referring the Council to the Minutes for further information.

Count de Penha Garcia had then added in his report:

> " I rely chiefly on my colleagues' wisdom, not only to solve this important problem of the termination of mandates, but to give a reply to this question."

This was equivalent to saying that his report was intended to give rise to a discussion on a subject which had never yet been examined in detail by the Commission, and which would therefore probably give rise to a lengthy exchange of views.

M. RAPPARD thought that it would be inadmissible, when the Council had asked the Commission for an opinion, for the Commission to reply that the Council would find that opinion in this or that document. It would be even more regrettable than if it were to say categorically: " The Commission was unable to formulate an opinion ".

Count DE PENHA GARCIA explained that he had had to consider the possibility that the Commission might not be able to formulate conclusions. More than once the Commission had ended a discussion by referring the Council to its Minutes, without being able to give a definite answer. He hoped, however, that the Commission would reach conclusions in the particular case under consideration.

The CHAIRMAN urged that the Commission should definitely adopt one or other of the texts as a basis for discussion, if it wished the proceedings to be perfectly clear.

M. Van Rees wished first to refer to an observation appearing on the first page of Lord Lugard's note. This observation was to the effect that it had been unnecessary for M. Van Rees to discuss the two points: (*a*) Are the mandates temporary ? and (*b*) What authority is competent to terminate a mandate ? M. Van Rees' note, however, was not intended for the Council. He had examined the question of the temporary nature of the mandate because that question had been discussed both outside the League and in it, and also because the Council itself had never dealt with it expressly. As regards the second question, that too should be examined, since, like the first, it could not be separated from the third question—namely, the general conditions required for the termination of a mandate.

M. Van Rees emphasised the fact that he had not intended his note to be submitted to the Council. He had drawn it up on his own personal responsibility. It now remained to determine the opinion which the Commission itself was to submit to the Council.

In reply to the Chairman's question, he thought that the choice of this or that document as a basis for discussion was quite a secondary matter. The real point was to formulate the conditions which the Commission considered indispensable. The various reports now before the Commission could be annexed to the Minutes.

Lord Lugard disclaimed any intention of undervaluing M. Van Rees' note. He had endeavoured to be as brief as possible, and this perhaps had given a wrong impression.

Count de Penha Garcia said that he had no objection to taking as a basis for discussion M. Van Rees' note, which obviously contained most of the material found in Lord Lugard's note and in his own report. He had been very glad to read the notes of his two colleagues, which showed the difficulties of the subject and the importance which the authors of the notes attached to it.

The Chairman pointed out that, whichever text was chosen, there was nothing to prevent any member of the Commission from asking for amendments to the conclusions which were about to be examined. As regards the order of discussion, he agreed with Count de Penha Garcia's suggestion.

Lord Lugard pointed out that in his note he had stressed the importance of defining beforehand the meaning to be attached to the terms " stand alone " and " the inhabitants " used in Article 22 of the Covenant.

Count de Penha Garcia said that that question was dealt with in his report, more particularly in the chapter entitled, " Capacity for Self-Government ".

M. Van Rees suggested that the report to the Council might be framed on the following lines.

There would first be a reference to the request addressed by the Council to the Commission. The Commission would then state that in its opinion a country which was deemed capable of standing alone should, in accordance with Article 22 of the Covenant, be declared independent and acquire the status of a new State.

Before expressing an opinion on that point, however, it would be necessary to make such a declaration conditional on certain guarantees to be given and certain obligations to be assumed by the new State. The report would conclude with an enumeration of those guarantees and obligations.

M. Rappard suggested that it might be well to adopt the idea embodied in Lord Lugard's note. M. Van Rees seemed to think there would be no difficulty in determining whether a country was politically mature, whereas Lord Lugard's note contained a very full analysis of the conditions determining the maturity of a territory, with very judicious suggestions, particularly as regards the distinction to be established between the various elements in the population.

The Chairman pointed out that this was a statement of fact and not a condition to be imposed.

M. Rappard observed that the reply to be given by the Commission dealt with the question of knowing at what moment a country was capable of standing alone.

M. Van Rees explained that the question of the means by which, that was to say, the elements on the basis of which, it was possible to arrive at the conclusion that a certain country was able to stand alone, was a question of fact. This was not the question in which the Council was most interested. It was important for the latter to be enlightened by the Commission as to the obligations to be imposed on the new State at the moment when it should be declared to be independent.

M. Rappard thought that it amounted to the same thing.

M. Orts said that the first condition was that the territory in question should be able to stand alone. What was meant by that expression ? This point had been examined in Lord Lugard's note. Secondly, what were the conditions to be laid down ? That problem was dealt with in the last part of M. Van Rees' note.

Lord Lugard emphasised the point that the first question to be examined was whether the term " inhabitants " meant the whole population of a mandated territory. In Syria, for example, there were four or five different communities which had arrived at different stages of development. If one of the States was able to stand alone, could it be emancipated from the mandate, while other parts of the mandated territory remained under the mandate ? A similar question arose where a minority claimed self-government.

M. Merlin thought that there was no more difference between the Druses and Syrians than between the Iraqi and Bedouins, for instance.

M. RAPPARD observed that it was necessary to take into account the proportion between the different elements of the population. In South West Africa, for example, there were some tens of thousands of whites capable of self-government, whereas there were hundreds of thousands of blacks in need of tutelage.

Lord LUGARD added that in Tanganyika there was a non-native community who might before long demand self-government, but the four millions of natives would not be fit to stand alone.

M. MERLIN said that that situation was found in every country where there were considerable differences between the intellectual *élite*, for example, and certain populations living in the mountains. It could not be said, however, that one class was fit for self-government while the other was not. Mandated territories had been created and henceforth those territories constituted an entity. They might include more or less civilised elements, but they could not be divided up: independence could not be granted to one part of the population and refused in the case of the remainder.

Lord LUGARD thought that, if the Commission adopted M. Merlin's opinion, that would in itself be a most important declaration of principle.

M. MERLIN repeated that, when the territories in question had been placed under the mandatory regime, they had come under that regime in their entirety. It would be impossible now to establish different categories of populations and to say that some were fit for independence and others not. The partial release of a mandated territory would make the position of the mandatory Power impossible. A patchwork system would result, even in the towns, and anarchy would be the outcome.

Lord LUGARD explained that his object in suggesting three formulæ was in order that, if application were made by any Mandatory for the withdrawal of its mandate, the Council would know what were the general principles which the Permanent Mandates Commission advised should be adopted in regard to it.

M. RAPPARD pointed out to M. Merlin that it was not enough to ignore a difficulty in order to do away with it. The Council expected a reply from the Commission. It should not be possible to say that the latter had ignored one aspect of the problem. The mere fact that the question was complicated by a matter of detail was no reason for not attempting to solve it. In South West Africa and Tanganyika there was a white minority which was clearly capable of standing alone. To state that it would be sufficient to have in a territory a skeleton framework consisting of a minority capable of governing the country, in order that the country should be able to stand alone would be to subordinate the population as a whole to that minority. Sooner or later, the Commission would have to examine Lord Lugard's suggestion or else it would not have done what it had been asked to do.

M. MERLIN repeated that, in his view, it was necessary to consider, not a minority, but the territory as a whole.

Count DE PENHA GARCIA pointed out that in his report he had endeavoured to determine the conditions required before the termination of a mandate. Among the points calling for exhaustive examination, he had mentioned in particular " the social and moral state of the population ". The various elements of the population of a territory might exhibit such differences from that standpoint that the territory could not be regarded as ready for independence, if only a minority were sufficiently developed, since that moral unity which was essential for a State would be lacking.

M. VAN REES suggested that the Commission might confine itself to giving the Council an opinion on the following points: (1) At what moment can a territory under mandate be declared independent ? (2) Under what conditions ? He did not think it would be wise to go into details concerning the first point, to provide for every possible case, to mention South West Africa, Tanganyika, etc., to say that in this or that part of the territory there was one element of the population capable of governing itself and that that part must be separated from the territory and declared a new State. It might perhaps be better simply to refer to the terms of paragraph 4 of Article 22 of the Covenant relating to A mandate and to add that the conception which was embodied in this paragraph applied to all the territories, without for the moment going into details which would only complicate the question.

He reminded the Commission that at the sixth session there had been a discussion with the accredited representative of the Union of South Africa, who had appeared to accept the view that South West Africa might soon become a province of the Union of South Africa after the withdrawal of the mandate, seeing that the territory would shortly be capable of governing itself, thanks to the large number of white colonists who had settled there. Several members of the Commission had contested that view. They had declared that Article 22 of the Covenant referred to peoples not capable of standing alone and that it was obvious that native populations were meant: if a number of Europeans had been made to immigrate into the territory in question, it did not necessarily follow that the territory could stand alone. Either it was necessary to try to find a formula covering all possible cases or the Commission must confine itself to a formula strictly in conformity with Article 22, and say that the mandate had been granted for a certain territory, that the latter could not be divided up, and that the mandate must be maintained or abolished for the territory as a whole. M. Van Rees still felt some hesitation in choosing between those two formulæ, but thought that it would be difficult to find any detailed text which would not uselessly complicate the question. He repeated that the power to stand alone was a question of fact which differed for each territory.

Count DE PENHA GARCIA thought there were two ways of putting the question before the Council:

1. The Commission might attempt to define fairly clearly the conditions which would meet the requirements of Article 22 of the Covenant. It was evidently very difficult to draw such conclusions without becoming vague or commonplace.

2. A very much simpler solution would be to say that a mandate should cease when the Council had been placed in a position to ascertain the ability of a mandated territory to dispense with a Mandatory. Apart from its simplicity, this solution would have the advantage of taking into account the condition which he had set out in his report under the heading " The Maintenance of Peace ", a condition which, in his opinion, must be regarded as indispensable.

M. RAPPARD drew attention to the exact wording of the Council's resolution of January 13th, 1930, which was in the following terms: " To determine what general conditions must be fulfilled before the mandate regime can be brought to an end ". The Commission was not, therefore, called upon to determine the conditions in regard to independence to be laid down by the Council *at the moment* of granting the independence, but the conditions to be laid down by the Council *before* the independence could be recognised. By adopting M. Van Rees' formula, the Commission would merely be referring the matter back to the Council.

M. ORTS said that in that case Lord Lugard's note was the only one which met the Council's expectations.

M. VAN REES thought that, on the basis of M. Rappard's argument, the Commission might confine itself to stating that a territory could be declared free as soon as its administrative and political organisation, etc., complied with the requirements of a civilised country.

M. RAPPARD agreed that it was difficult to draft an answer to the Council's question. He asked the Secretariat whether he was right in his interpretation of the Council's discussions.

M. CATASTINI recalled that the question had been discussed by the Council at its session in January 1931. There had been some doubt as to whether the particular or the general case should be considered. The outcome of the discussion was that the Commission was not called upon to consider the special circumstances of any particular territory.

Lord LUGARD said that, in the event of a mandatory Power addressing a request to the Council for the cessation of a mandate, the Council, having regard to the advice of the Permanent Mandates Commission, would wish to know whether the request corresponded to the wishes of the majority or a minority of the population concerned, and would no doubt be guided in its decision by the conclusions reached by the Permanent Mandates Commission. The first thing to do, however, was to decide as to the general principle. What was meant by a people being capable of independence ? Could a territory which still required the financial or military aid of another Power be regarded as standing alone if that phrase were strictly interpreted ? Was it necessary so to interpret it ? Would it be regarded as sufficient if the demand for the withdrawal of the mandate were prompted by a minority, or must it come from a majority ? Could a part of the territory be emancipated from the mandate and the rest still remain under it ?

M. VAN REES observed that the Council would not consider a request put forward by a *majority* or a *minority* of the territory. Such a request would have to be made by the mandatory Power, and the latter would have to state that the territory as a whole was capable of self-government. It was this point he had brought out in his note when he said: (See Annex 3*a)* page 200).

> " In conclusion, it may be said that an international mandate cannot cease before the *territory* to which it applies has given conclusive proof that its political, administrative, economic and social development is such as to enable it to manage its own affairs as an independent State, *it being understood that it is not for the inhabitants of the territory, but for League Council* to decide whether those inhabitants are capable of standing by themselves."

M. RAPPARD said that that formula did not get over the difficulty.

M. VAN REES, basing his remarks on his personal recollection of the Council meeting wished to explain what the Council required of the Commission. It transpired clearly from that meeting that the Council desired the Commission to examine the general conditions which the territories under mandate must satisfy in order to claim their independence, in accordance with the temporary character of the mandate; the Commission was not required to consider a particular case or the question of the admission to the League of Nations of a territory which had been emancipated. The two questions for consideration therefore were: (1) Is the territory capable of self-government ? (2) What conditions should be imposed on it at the time of the declaration of its independence ?

An answer to the first question would certainly not be regarded as sufficient by the Council, which would feel that it could not merely terminate its connection with the territory; it would first need to obtain guaranteees from the new State and formal assurances that it would respect its obligations. In any case, there seemed to be no doubt that the Council expected to receive from the Commission an enumeration of the different general guarantees which a territory must give before it could be liberated from the mandate.

M. ORTS remarked that that amounted to distinguishing between the *de facto* conditions and the contractual obligations.

M. VAN REES agreed. The capacity for self-government was a *de facto* condition. The remainder consisted in the principles expressed in certain obligations to be assumed by the new State.

Lord LUGARD put the case of a request by the inhabitants of a mandated territory, for example, South West Africa for " self-government ", with a concomitant proposal addressed by the mandatory Power to the Council for the cessation of the mandate. What would the Council do in such a case ? Would it not have to enquire whether the request was presented in conformity with the demand of the majority or of the minority of the population concerned ?

M. ORTS thought that by combining the three reports of Count de Penha Garcia, Lord Lugard and M. Van Rees, completed by the opinions expressed orally by the other members, it was possible to find the necessary data for a reply to the first request of the Council with regard to the conditions of fact, and to the second request with regard to the contractual obligations. As regards the conditions of fact as laid down by Lord Lugard, it might be said of any particular territory that it was not necessary for it to assume the responsibility of its own defence, or to be in a position to govern itself in the most perfect manner, or to be able to do without experts from other countries. In M. Merlin's view the aspirations of a mere minority, exercising pressure on the mandatory Power, would not be sufficient to end a mandate. All those conditions were reconcilable. As regards the obligations to be accepted by the territory, they would be found in M. Van Rees' note which insisted on the necessity for safeguarding various interests.

It might be maintained that, with a system of this kind explained *ex cathedra*, it was possible that circumstances peculiar to a particular territory might constitute an obstacle in the way of the recognition of its independence, although the territory might be in a position to govern itself. To that argument he would reply: " Let us each mind our own business ". The Commission was asked to state what, in principle, were the conditions to be laid down. When concrete cases arose, such as the case of Syria, Palestine or the like, they would not concern the Commission. The Commission would have laid down the rules and it would be for the political body, that was to say, the Council, to take action within the limits suggested by the Commission.

M. RAPPARD remarked that the general rules laid down by the Commission ought to be such as to admit of different applications in particular cases. The Commission could only deduce general rules from a previous study of the Covenant and of the individual mandates.

M. ORTS remarked that the authors of the three notes, which had been submitted to the Commission, had had in mind all the particular cases. The conclusions at which the Commission would arrive would constitute a general theme on which the Council might make variations.

M. MERLIN did not think that the conclusions which the Commission would have to reach were yet quite clear. It would seem from what M. Orts had said, that too much difficulty should not be made in regard to the guarantees of independence, in relation to foreign countries, to be offered by new States, or again, in regard to the authority of such States within their own frontiers. He personally thought that the conditions to be laid down should be made more exact. Above all, he was anxious to avoid the introduction of any reference to minorities or majorities. Any such reference would open the door to insoluble difficulties. In his view, the essentials entitling a State to be regarded as capable of self-government were as follows:

1. It should be in a position to maintain its independence in relation to foreign countries, whether by its own military strength, or by alliances, or by such support as it might receive from the former mandatory Power;

2. It should be capable of maintaining law and order throughout its own territory;

3. It should be provided with an organised administration capable of maintaining the regular operation of all the public services;

4. It should have at its disposal direct or indirect financial resources organised in such a way as to be able to provide in the regular course for all the requirements of the State;

5. It should have a corpus of laws and a judicial organisation enabling it to render to all elements of the population and to each individual equal justice regularly executed.

Count DE PENHA GARCIA agreed with M. Merlin. Indeed, the conditions he had just postulated would all be found in Count de Penha Garcia's own report. He had, however, added one other factor—namely, " The social and moral state of the population ", which it was desirable to add to M. Merlin's list and to consider carefully, because it covered some of the points very properly put forward by Lord Lugard.

The CHAIRMAN said that, before entrusting to any member of the Commission the task of preparing a draft of the Commission's conclusions, it was essential to make certain if the Commission considered that the list of conditions enumerated by Count de Penha Garcia and other members was complete.

M. RAPPARD said he agreed with all M. Merlin's remarks though, he did not consider that his list should be considered as comprehensive.

Count DE PENHA GARCIA remarked that his own list of conditions was also not comprehensive, as was shown by the fact that he had written: " Other points will also require examination, *particularly* . . . "

It was agreed, after further discussion, *that M. Orts should prepare a draft of the Commission's conclusions.*

The CHAIRMAN said he was anxious, on behalf of all the members of the Commission, to thank Count de Penha Garcia for his report and, on his own behalf, to apologise for having pressed him

so much in the production of it. The Commission had now to draft its conclusions, taking into account all the opinions expressed. This was the moment, when M. Orts was undertaking that task, to express to Count de Penha Garcia the thanks of the Commission for his remarkable study of the subject which had made it possible to deduce the views of the Commission in the matter.

He asked M. Orts to give a brief account of the manner in which he proposed to draft the Commission's conclusions, in order to remove all misunderstanding and to avoid the necessity for reconsideration of the substance of the conclusions in question.

M. Orts replied that he proposed to follow the arrangement of Count de Penha Garcia's report. He would first refer to the discussions of the Council at the sessions of January 1930 [1] and January 1931. [2] He would then discuss the interpretation of the Council's decisions, as to: (1) the conditions of fact which, in the opinion of the Commission, should be realised in a territory to enable the latter to be considered as ripe for independence, and (2) the engagements for the future to be assumed by the country in question vis-à-vis the Council.

As regards the *de facto* situation which should exist in the territory, he proposed to base his statement on the observations of Count de Penha Garcia, Lord Lugard and M. Merlin. As regards the obligations to be incurred by the new State, he proposed to base his conclusions on the text of the final paragraphs of M. Van Rees' note, that was to say, to base the obligations to be assumed by the new State on those imposed by the peace treaties on the new countries which arose from the war.

Count de Penha Garcia pointed out that he had arrived at almost the same conclusions as M. Van Rees except for certain differences which would be found in his report. [3]

The Chairman asked M. Ruppel if he had any other suggestions.

M. Ruppel considered that the obligations to be assumed by the new State should include the confirmation of general conventions in force. The note by M. Van Rees contained no suggestion on this point. He also thought it necessary to provide for the maintenance of a certain number of bilateral conventions, such as those fixing the frontiers of the territory. It might also be provided that all obligations to be undertaken by the territory should be placed under the guarantee of the League of Nations, as had been done in respect of obligations relating to minorities.

Lastly, in addition to the *de facto* conditions and the treaty obligations mentioned by M. Orts, there was the question of the Governments which should give their consent to the termination of the mandate. According to the notes submitted to the Commission, the consent of the United States of America would be necessary. Perhaps other Governments were in the same position. Without wishing to enter into details, M. Ruppel referred to the special position of Germany in respect of her former colonies and to the passage relating to Germany in Lord Lugard's note.

M. Rappard pointed out that Germany was represented on the Council and would therefore be consulted.

M. Ruppel did not know his Government's point of view, but he was certain that many people in Germany considered that Articles 22 and 119 of the Treaty of Versailles were to be taken together, and that Germany was specially entitled to see that Article 22 was enforced. He thought it might be stated in a third chapter that in certain cases certain Governments might have to be consulted if they claimed certain rights.

M. Van Rees, referring to M. Ruppel's first suggestion, did not think it possible to speak in a general way of all international conventions. The reference, moreover, should be confined to those mentioned by Lord Lugard, that was to say, conventions on slavery and traffic in drugs, and naturally also the 1925 Convention on Traffic in Arms. In his opinion a territory declared independent and sovereign could not be bound never to denounce any existing general international conventions.

M. Ruppel had also mentioned bilateral conventions, especially those referring to the frontiers of the territory. M. Van Rees thought it unnecessary to mention them, as these conventions had fixed the frontiers of the territory once for all, and it was the territory thus delimited which would have to be declared independent and not a territory with other frontiers.

M. Ruppel pointed out that there were special clauses in the frontier conventions—for instance in respect of transit questions.

M. Van Rees thought this question concerned the new State, whose hands could not be tied indefinitely in this respect. These conventions should not be fixed permanently; the new State should be entitled to contract freely with its neighbours in this matter.

Lastly, it was also unnecessary to state that Powers other than the United States of America should be consulted. As the other States were Members of the League of Nations or even represented on the Council, they would be able to oppose the declaration of independence, while the United States would not be in that position.

M. Ruppel replied that, without contemplating such a hypothesis, the case might arise of a State being no longer a Member of the League of Nations.

---

[1] See Minutes of the Council, fifty-eighth session, pages 70 to 77.
[2] See Minutes of the Council, sixty-second session, pages 179 to 186.
[3] See Annex 3 *c*, pages 207-208.

M. Van Rees replied that in that case a reservation should be made for this possibility. If the Commission stated in its report that the consent should be obtained, not only of the United States of America, but of other States, the Council would ask to what other States the Commission referred.

M. Rappard pointed out that there was also Turkey.

M. Van Rees replied that Turkey would have nothing to do with the declaration of Iraq independence. He added that M. Ruppel's apprehensions seemed somewhat premature, as the time had not yet come when the mandated territories which were formerly German colonies would be declared independent.

M. Ruppel referred to South West Africa.

Lord Lugard wished to make clear the passage of his note to which M. Ruppel had referred. He had not meant that Germany or any other State Member of the League should be specially consulted, but that the Council, in terminating a mandate, should see that Germany's rights under the Treaty were not infringed.

M. Ruppel thanked Lord Lugard for the observation made in his note.

Count de Penha Garcia said that he had gone much further in his report than M. Van Rees in respect of general international conventions. He considered that the mandate being under the supervision of the League of Nations, and terminated by it, it would be strange if the ward itself did not fall within the limits of the provisions laid down by the League for the maintenance of peace—that was to say, the provisions of general international conventions. Before the Council declared the territory to be independent, the League would be entitled to request the territory to enter into the perfect framework of the League, that was to say, the general international conventions which were an important element in the organisation of peace.

As regards the countries to be notified of the independence of the new State, Count de Penha Garcia thought that only the United States of America should be mentioned, the other States non members of the League of Nations, whose previous situation was not comparable with that of the United States, would be faced with an independent State subject to a normal regime.

M. Van Rees did not think the Commission could go so far as Count de Penha Garcia suggested. It would be different if the territory requested admission to the League. In such a case it would appear that, under the terms of the Covenant, the new State would have to sign all the general conventions concluded under the auspices of the League, but, so long as the new State did not request admission, the Council could not compel it to sign all the existing international conventions. This was precisely one of the reasons for the distinction made between the termination of the mandate and admission to the League.

Count de Penha Garcia replied that in his report he had only dealt with the question of the cessation of the mandate, in accordance with the request of the Council. He had even contemplated a procedure independently of the entry of the new State into the League of Nations. The two questions were not necessarily connected. In any case the latter was not within the competence of the Commission.

He wished to insist on one principle which he regarded as essential—namely, the maintenance. of peace, whether the new States entered the League of Nations or not. The acceptance of general international conventions by the new State would give a further proof that it had reached a sufficiently advanced stage of civilisation. Lastly, what harm would that acceptance cause to the territories in question ? He did not know of any legal arguments which could prevent the Council from asking the new State to accede to the general international conventions to which it should subscribe.

M. Rappard referred to M. Ruppel's argument that Germany, in giving up her colonies under Article 119 of the Treaty of Versailles, had done so under the conditions laid down in Article 22. Personally, M. Rappard did not think this argument was well founded, but, if it were admitted, it would apply also to all the signatories of the Treaty of Versailles other than Germany. Those signatories would have declared that they renounced the right to share in the division of the territories in question, provided there was a mandate; they included States not represented on the Council, so that their position in this respect was worse than that of Germany. He repeated that in his opinion the argument was incorrect and that the cession had taken place unconditionally; but if the States in question adopted the point of view to which he had referred, they could maintain that they had not protested against the manner in which the former German colonies had been disposed of, because they knew that the territories would be placed under mandate and that they would enjoy equal economic rights in those territories. If the territories were now emancipated and provision were not made for the maintenance of this equality, was there not a danger that a mandatory Power might claim the emancipation of a territory precisely in order to evade this condition of economic equality ? If there were no special provisions regarding economic equality, there was nothing to prevent the said Power, immediately after the establishment of independence, from securing from its former ward exclusive advantages which it could not previously have obtained. In such circumstances, the States in question which were signatories of the Treaty of Versailles might require that their consent should be obtained to the declaration of independence. The question therefore arose whether it was desirable to propose that there should be included among the conditions to be imposed on the territory the maintenance of economic equality.

The CHAIRMAN stated that this view was in accordance with that which he had always held, above all at the sixteenth session.

M. VAN REES thought that M. Rappard's argument was indefensible.

M. ORTS said that he personally had at first thought of including as a condition the maintenance of economic equality, but it seemed impossible permanently to impose on any independent State a particular economic regime.

The CHAIRMAN said that it was merely a case of preventing the ex-mandatory Power from securing exclusive advantages. The principle of equality had, up to the present, played a negative part against the mandatory Power in the exercise of the mandate system, in the sense that it assured to the nationals of the States Members of the League of Nations conditions which were neither better nor worse than those enjoyed by the nationals of the mandatory Power. The Chairman thought that in some form or other this basic situation should be safeguarded. He considered the existence of this principle as an acquisition on the part of the League of Nations in that its application could not but contribute as the Vice-Chairman had explanied in his work, to the maintenance of world peace. He thought that the Mandates Commission in its capacity as an organ of the League could only do its best to ensure that this principle would be maintained within those reasonable limits which could be accepted from the point of view of international life.

M. RAPPARD noted that M. Orts had not replied to his objection. If it were desired to prevent the other States signatories of the Treaty of Versailles to whom he had referred from demanding that their consent be previously obtained, should not provision be made for the maintenance of economic equality ?

Lord LUGARD pointed out that he had referred to this question in the last paragraph of his note.

M. VAN REES said that, if the Council declared Iraq independent and imposed certain guarantees, there was nothing to hinder the other Members of the League from giving their views.

M. ORTS added that, as the agenda of the Council was published in advance, any State Member of the League might submit its objections and even ask to appear before the Council when a question of particular interest to it was being discussed.

Count DE PENHA GARCIA said he had studied the question of economic equality and he did not find a single argument to convince him that, when a State was declared independent, it could be subject to such a principle as that of economic equality. The reason was very simple; when this principle had been introduced, the mandatory Power had been in mind and, with the disappearance of the latter, it was no longer necessary to maintain the principle. It would remain as long as the mandate.

M. MERLIN supported Count de Penha Garcia's observations and did not think that M. Rappard's apprehensions were well founded. If a mandatory Power took advantage of its position to obtain certain advantages, it would do this either before the emancipation of the territory, in which case the abuse would be apparent to all and would call forth protests from the parties concerned, or after such emancipation, in which case nothing could be said.

M. RAPPARD replied that it was precisely this second eventuality which might be contemplated; before the emancipation of the territory, the mandatory Power might negotiate with the representatives of the territory under mandate and set this price on its emancipation. England's action had not been essentially different when she retained the monopoly of officials in Iraq; a further monopoly such as that of military supplies might also be imagined; this would not actually constitute an abuse of powers, but it would be prejudicial to the other States signatories of the Treaty of Versailles of whom he had spoken. The real argument against the thesis which he had examined was that Article 22 provided for a temporary regime and that the States in question consequently could not make it a pretext for claiming a permanent right.

The CHAIRMAN again urged that his colleagues should immediately offer any suggestions which they had to make so that the discussion on the substance of the question need not be re-opened later. He understood that M. Rappard and himself were in agreement on the question of economic equality.

M. RAPPARD could not express a categoric opinion on this subject as, on reflection, the best argument against the principle of maintaining economic equality seemed to him to be that which he had last mentioned.

M. RUPPEL agreed with the opinion of the majority of the Commission; he did not think it was equitable to impose a unilateral obligation indefinitely on a country.

M. ORTS asked whether, in the text which he would submit to the Commission, he should confine himself to stating the conclusions without developing the arguments in support of them.

The CHAIRMAN replied in the affirmative. The arguments would be contained in the Minutes and in the reports annexed to them.

TWENTY-SECOND MEETING

Held on Tuesday, June 23rd, 1931, at 10.30 a.m.

Iraq: Examination of the Special Report on the Progress of Iraq during the period 1920-1931 *(continuation)*: **Form of the Commission's Report to the Council** *(continuation)*.

The CHAIRMAN submitted to the Commission three drafts of observations on the special report on Iraq, the authors of those drafts being respectively M. Van Rees, M. Rappard and the Chairman himself. They were as follows:

Text proposed by M. Van Rees.

" The Permanent Mandates Commission:

" Having examined the special report submitted by the mandatory Power on the progress made by Iraq during the period 1920-1931 and having heard the additional explanations given by the accredited representative of that Power;

" Is of opinion that it has received from the mandatory Power all the information it could require as to the present position of Iraq and the progress that country has made under the mandate regime.

" Having considered the document submitted to it by the mandatory Power and having regard to the formal declarations made by that Power and by its accredited representative to the effect that Iraq is capable of governing itself in complete independence, the Permanent Mandates Commission concludes that, in examining this material, it has found no objection that could be legitimately raised against the mandatory Power's assertion that Iraq is fit for self-government, and that consequently, in virtue of Article 22, paragraph 4, of the Covenant, the mandate under which that territory has been place may be brought to an end."

Text proposed by M. Rappard.

" In the course of the present session the Commission had occasion to examine the mandatory Power's report on the progress made by Iraq between 1920 and the present day. This examination was of particular interest, inasmuch as the Commission enjoyed the help of Sir Francis Humphrys, the High Commissioner, and his chief assistant, Major H. W. Young, who gave very valuable particulars supplementary to those contained in the report.

" So far as its normal sources of information under its rules of procedure permit, the Commission is thus now in a position to express its views on the mandatory Power's proposal for the termination of the Iraq mandate. As soon as the Council has reached a decision as to the general conditions which must be fulfilled before a mandate can be brought to an end, the Commission will be ready to submit to the Council its opinion on the British proposal regarding Iraq, after examining that proposal in the light of the Council's resolution."

Text proposed by the Chairman.

" At the meeting of the Council held on January 22nd, 1931, the representative of the British Empire made the following declaration:

> " With regard to the Mandates Commission's request to be furnished with fuller information concerning the degree of political maturity attained by Iraq, he could have wished that the Commission had specified with somewhat greater precision the actual points upon which fuller information was required. The British Government would, however, at once take steps to prepare a comprehensive report containing a review of the progress made in Iraq under the mandatory regime, a general exposé of the existing situation, and all the information which it considered likely that the Commission would wish to possess. In order, however, to assist the Mandates Commission to submit definite views on the subject to the Council after its session in November, his Government suggested that the report in question should be a special one which could be submitted in time for consideration by the Commission at its June session. The special report would not, of course, replace the annual report on Iraq for the year 1930, which would be submitted as usual for the consideration of the Commission at its November session.
>
> " The procedure he had suggested would have the advantage that any deficiencies in the special report to which the Commission might draw attention in June could be remedied at its November session, either by the presentation of a supplementary report or by the oral evidence of the accredited representative. As soon as it was informed

that this procedure would be agreeable to the Permanent Mandates Commission, the British Government would proceed to the preparation of the special report.

" Some time before the opening of its twentieth session the Mandates Commission received a report entitled ' Special Report by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to the Council of the League of Nations on the progress of Iraq during the period 1920-1931 '.

" The British Government accredited to the Commission for the examination of this report Sir Francis Humphrys, High Commissioner, and his chief colleague, Major H. W. Young, who, in reply to the questions asked by the Commission, have very kindly furnished the supplementary information desired.

" The Mandates Commission greatly appreciated the trouble which the British Government had taken to comply with the recommendation made by it at the close of its nineteenth session. It had found in the special report submitted to it most of the information which had been lacking hitherto, and which would enable it to prepare its opinion on the progress made in Iraq after eight years of the mandatory regime.

" During the session the accredited representatives gave information supplementing that report and stated that replies would be sent later to the questions raised by members of the Commission.

" Accordingly, the Commission is glad to be able to inform the Council that it did not note any particular omissions in the special report submitted by the mandatory Power.

" The Commission has every reason therefore to suppose that, at its session next November, it will be able, when so requested, to give an opinion as to the degree of political maturity attained by Iraq, so far as is compatible with the actual nature of its duties and with its rules of procedure and in the light of the necessarily limited material which it will have at its disposal."

The CHAIRMAN emphasised the importance which he attached to the last paragraph of his draft, which tended to bring out the very limited scope of the opinion which the Commission would, in due course, express as to the degree of political maturity attained by Iraq.

M. VAN REES feared that, in particular, the declarations contained in the fourth, fifth and sixth paragraphs of the Chairman's draft would give an unfortunate impression, owing to the fact that they might give rise to the impression that the Commission was sheltering behind a manifestly weak reason for refusing to give an opinion at once on the substance of the question. Every reader of the Minutes would, in fact, realise that the supplementary information mentioned in the draft and which related only to certain points of detail would not change in any way the opinion of those who had not yet been able to form one on the capacity of Iraq to stand alone.

He thought that the Commission could give its opinion on the question at once. The special report showing the progress of Iraq under the mandatory regime had been prepared for the Mandates Commission and with the sole object of enabling it to form an idea as to Iraq's political maturity, a question which it had discussed at length at the two previous sessions.

If the Commission, after having made every effort to obtain full information, itself recognised that Iraq might reasonably be regarded as capable of managing its own affairs without the assistance of a foreign authority, M. Van Rees thought it would be strange for the Commission merely to inform the Council, as was stated in the Chairman's draft, that it " did not note any particular omissions in the special report ", and to stop there without coming to any conclusion. It was quite obvious that, if Mr. Henderson had recommended last January that the report should be examined at the June session and that the Commission's final opinion should be made known in November, he had expressed himself in that way, not because he thought it desirable to adjourn the Council's decision, but in all probability because he foresaw the possibility of the Commission not declaring itself fully satisfied in June with the information supplied in writing and orally through the medium of the High Commissioner. It was not conceivable that, if Mr. Henderson had been able to foresee that that information would satisfy the Commission, he would have insisted on the latter not stating its conclusion before November. There was no reason to attribute so strange an attitude to Mr. Henderson, an attitude for which Iraq would certainly not be very grateful to him.

Had the Mandates Commission any right, by refraining from drawing a logical conclusion from its findings, to risks involving Great Britain in such difficulties ? Irak had long been cherishing the hope that she would be released from the mandate in 1932, and would certainly expect something more substantial than a mere statement that the Mandates Commission was satisfied with the special report. Irak was hoping for a further step forward and would fail to understand—and rightly so—like everyone else, why the Mandates Commission, though expressing its satisfaction at the information supplied, should not have been willing to deal with the substance of the question, which was obviously much more important to Iraq and to the world in general than the fact of the Commission being satisfied.

M. Van Rees could not see why the Commission should be obliged to lend itself to so incomprehensible an attitude, an attitude which, moreover, was capable of arousing in Iraq all kinds of unrest and suspicion. Was it because Mr. Henderson had been good enough to give it an opportunity of thinking over things until November ? That excuse, he felt, would be somewhat futile. Was it because the Council had not formally expressed a desire to hear what the Commission thought as regards the political maturity of Iraq ? That excuse did not seem to him to be much more deserving of consideration than the first, seeing that the Council was aware that the Commission at its sixteenth and nineteenth sessions had held lengthy discussions on the

question of Iraq's maturity, and that it was for the very purpose of dispelling any doubts that might still exist on the subject in the Commission's mind that, with the Council's approval, the special report which the Commission had just examined had been submitted. Lastly, was it afraid, if it expressed an opinion, of repercussions occurring in Syria and elsewhere which it desired to delay for some months ? In that case, M. Van Rees could only say that the efficacy of such an expedient seemed to him doubtful, to say the least of it.

Such were the considerations that had inspired him in framing the draft observations submitted to the Commission.

The CHAIRMAN did not think the Council had asked the Mandates Commission to express a definite opinion. M. Van Rees had always maintained that it must not anticipate the Council's wishes. He would have no difficulty in supporting M. Van Rees if the Commission thought it should discuss immediately the question of the emancipation of Iraq. That was the point he wanted the Commission to settle.

M. VAN REES drew attention to the fact that under the terms of his draft the Commission did not state that Iraq was able to stand alone, but that its examination of the question had not disclosed any objection of such a nature that it could be legitimately used to contest the statement of the mandatory Power that Iraq was able to stand alone. M. Van Rees had presented his explanatory details on this point at a previous meeting when he had maintained that it was not for the Commission to assume a responsibility which belonged only to the Mandatory, the sole judge and the sole authority which was in a position to take a decision with full knowledge of the facts.

M. RAPPARD thought that the Commission was not required to give a definite opinion immediately. He agreed, however, with M. Van Rees that it was preferable not to advance, in explanation of its postponement of the question, reasons which were manifestly inadequate. His personal view was that the Commission was justified on several grounds in not expressing an opinion immediately. In the first place, the Council had not asked it to do so. Secondly, by giving a premature reply the Commission might be doing a disservice to other mandatory Powers, which would undoubtedly feel the repercussions of the termination of the mandate in Iraq. Thirdly, the Council had asked the Commission for its opinion as to the general conditions required for the termination of the mandate regime in any country placed under that regime. It was necessary to wait, before giving an opinion on Iraq, until the Commission had defined those general conditions and the latter had been sanctioned by the Council. Lastly, the Commission would no doubt be tempted to formulate conditions for the termination of the mandate over Iraq. It was, however, quite obvious that those conditions must depend on the general conditions required for the termination of a mandate, and on that point it was essential to have the Council's opinion.

M. Rappard thought that the text which he had himself submitted embodied the views expressed during the Commission's discussion of the subject. He would suggest, however, a slight amendment at the beginning of the second paragraph, in order to take into account the idea put forward by the Chairman in the last paragraph of his draft.

Lord LUGARD observed that according to M. Van Rees's text the Commission had found " no objection that could legitimately be raised against the mandatory Power's assertion . . . " He was not prepared to accept that statement before the Commission had determined the general conditions to be laid down for the cessation of the mandatory regime. He again repeated that in his opinion it was indispensable first to settle the question of principle and then to proceed from the general to the particular.

He further drew attention to the passages in the same paper to the effect that Iraq was in a position to govern itself in complete independence. He pointed out that the question of Iraq's independence was not before the Commission. It was already laid down in the Iraq Constitution (Article 2) that Iraq was a sovereign, free and independent State.

He entirely agreed with the text proposed by M. Rappard.

M. ORTS shared the opinion expressed by M. Rappard and Lord Lugard and was also in favour of the text proposed by the former.

He pointed out, however, that if the Commission were prepared to say that it saw no objection to the cessation of the mandates system in Iraq, it was indispensable to state that its acceptance of this conclusion was subject to the approval by the Council of the general conditions which the Commission might fix for the cessation of a mandate, and the acceptance by Iraq of those conditions.

Finally, M. Orts considered that, as the Commission had not, up to the present, been invited to give its opinion, it would be desirable for it to withhold it until the time when its reply was awaited. However improbable it might be events might occur between the present time and November next which might be of such a character as to modify the opinion of the Commission.

M. RUPPEL said he would have no objection to the cessation of the mandate for Iraq subject to the conditions to be imposed on the new State. But he agreed with a number of speakers that the Commission was not called upon to give its opinion immediately.

M. SAKENOBE was convinced by his study of the special report and the additional information supplied by the accredited representative, that Iraq was ready for emancipation. As, however, the Commission had decided that the general conditions for the cessation of a mandate should first be fixed, he thought it would perhaps be premature to formulate its view until the conditions in question had been determined. He agreed accordingly with the majority.

M. MERLIN thought it did not matter at the moment whether the Commission was quite clear on the question of the cessation of the mandate for Iraq. The important point was that it was not called upon to give its opinion immediately. The study of the general conditions for the cessation of the mandatory regime, as M. Rappard had pointed out, was proceeding. Until these conditions had been determined by the Commission and sanctioned by the Council, it would be difficult for the Commission to say that Iraq could be relieved of mandatory guardianship. It might be that the Council or the Commission itself would lay down conditions which would not be realised in Iraq, and in that case the Commission would find itself in a false position.

He therefore thought it opportune not to give an opinion for the present, and he agreed entirely with M. Rappard's draft observations, which he considered excellent both as regards the form and the substance.

Lord LUGARD asked whether if the Commission waited for the Council's approval of the general conditions for the cessation of the mandatory regime which the Commission would formulate during the present session there would still be time for the Commission to reply regarding Iraq at its November session since Iraq was expecting to be recommended in 1932 for entry into the League.

M. RAPPARD replied to Lord Lugard that there would be no delay, since the Council met in September and the Mandates Commission in the following November. The procedure proposed was therefore perfectly feasible.

M. VAN REES confessed that he preferred his own draft.

It had been said, during the discussion, that it was essential to wait until the general conditions for the cessation of a mandate had been fixed before the Mandates Commission could express an opinion on the question of the emancipation of Iraq. Were these two questions, however, really closely connected ? In M. Van Rees' view they were, on the contrary, quite distinct. The declaration that Iraq had attained a sufficient degree of political maturity concerned the past. The guarantees to be required of an emancipated Iraq concerned the future. It must not be forgotten, moreover, that in the same report to the Council the Commission would formulate the conditions to be imposed on any State liberated from the guardianship of the mandate.

It had also been objected that the Council had not formally asked the Commission to state its opinion. M. Van Rees had already explained, on a previous occasion, why he did not think that the Council had intentionally omitted to make this request.

Furthermore, it seemed to him to be an exaggeration to suppose that the Commission would be showing a lack of courtesy to the Council if it said what was the logical result of the examination it had been asked to make.

He accordingly maintained the views he had put forward, the direct and logical expression of which was to be found in the wording he had proposed.

The Commission adopted unanimously, with one dissentient vote, [1] *the following draft observations :*

" In the course of this session the Commission had occasion to examine the mandatory Power's report on the progress made by Iraq between 1920 and the present day. This examination was of particular interest, inasmuch as the Commission enjoyed the help of Sir Francis Humphrys, the High Commissioner, and his chief assistant, Major H. W. Young, who gave very valuable particulars supplementary to those contained in the report.

" So far as its normal sources of information permit, the Commission is thus now in a position, to the extent compatible with the nature of its functions and its procedure, and subject to the information which has been promised to it, to express its views on the mandatory Power's proposal for the termination of the Iraq mandate. As soon as the Council has reached a decision as to the general conditions which must be fulfilled before a mandate can be brought to an end, the Commission will be ready to submit to the Council its opinion on the British proposal regarding Iraq, after examining that proposal in the light of the Council's resolution."

General and Special International Conventions applied to Territories under Mandate: Report by M. Orts (Annex 4).

M. RUPPEL observed that the tables submitted to the Commission were not quite complete. For example, the list of Conventions concluded under the auspices of the League of Nations did not include the International Convention for the Abolition of Import and Export Prohibitions and Restrictions, the International Convention relating to Economic Statistics, or the International Convention for the Suppression of Counterfeiting Currency. Of the Conventions concluded under the auspices of the International Labour Office only one was mentioned.

The CHAIRMAN suggested that the Secretariat should look into the points to which M. Ruppel had drawn attention. A text would have to be drawn up for insertion in the report to the Council.

The conclusions of M. Orts' report were adopted with some drafting amendments and subject to the Chairman's observations.

---

[1] One member of the Commission dissented from the above statement (see Minutes of the present session, pages 142-143 and 148-150).

TWENTY-THIRD MEETING

Held on Wednesday, June 24th, 1931, at 10.30 a.m.

Conventions regulating the Transit of Mineral Oils of the Iraq Petroleum Company, Limited, through the Territories of Syria and the Lebanon *(continuation).*

The CHAIRMAN said that he had a copy of the Conventions between Syria and the Lebanon, on the one hand, and the Iraq Petroleum Co., on the other, which had been handed to him by the representative of the mandatory Power for Syria; these texts could be consulted by any members of the Commission interested in the question. The accredited representative of the mandatory Power for Syria would be prepared to give the Commission any explanations.

South West Africa: Observations of the Commission.

After an exchange of views, *the Commission adopted its observations concerning South West Africa under the mandate of the Union of South Africa* (Annex 16).

Iraq: Various Petitions emanating from Kurdish Sources: Report by M. Rappard (Annex 10).

The Commission approved the Rapporteur's conclusions, subject to certain modifications in regard to details.

Syria and Palestine: Petition, dated December 12th, 1930, from Mrs. Evelyn Evans, in the Matter of the Syria-Ottoman Railway Company: Report by M. Ruppel (Annex 15).

The Commission adopted the conclusions of the Rapporteur with some drafting amendments.

Palestine: Memorandum, dated April 30th, 1931, on the Development of the Jewish National Home in Palestine in 1930, submitted by the Jewish Agency: Report by M. Ruppel (Annex 12).

The Commission adopted the Rapporteur's conclusions.

Iraq: Letter, dated May 21st, 1931, from Mr. A. H. Rassam.

M. VAN REES had previously submitted to the Commission, in his capacity as acting Chairman, the question of the nature which was to be attributed to Mr. A. H. Rassam's letter, dated May 21st, 1931. The *Commission* after discussion and on the proposal of M. RAPPARD, *decided that the letter should be sent to the mandatory Power for its observations.*

Iraq: Letter, dated May 5th, 1931, from Mr. A. H. Rassam, containing Observations relating to Certain Statements made in November 1930 by Major H. W. Young, Accredited Representative for Iraq.

The CHAIRMAN having submitted to the Commission the question of the nature to be attributed to Mr. A.H. Rassam's letter, dated May 5th, 1931, the Commission decided, after discussion and on the proposal of M. RAPPARD, *that Mr. Rassam's letter should be transmitted to the mandatory Power for its observations.*

Review of Press Comments relating to the Work of the Mandates Commission and the Work of the Council and Assembly in regard to Mandates.

M. CATASTINI said that, for some years past, the Mandates Section had prepared and distributed twice a year, to members of the Commission, a review of Press comments relating to the work of the Commission and the work of the Council and Assembly in regard to mandates.

At its eighteenth session, the Commission had decided, as a measure of economy, that the Mandates Section should in future forward only a list of the various articles received, with an indication of their contents. The Commission had decided further, that all Press cuttings received should be kept in the Mandates Section and that only two or three articles should be distributed

each year. In conformity with this decision, a list of articles was distributed during the nineteenth session of the Commission, in November 1930.

The Secretariat realised that this system, which was introduced for reasons of economy, presented certain drawbacks. On the one hand, the complete list of Press articles on mandates was bound to be unduly extended, owing to the large number of trivial articles and of articles which were often identical; on the other hand, it was difficult for members of the Commission to consult the file of Press cuttings owing to the fact that there was only one copy.

The Mandates Section had accordingly endeavoured, since the close of the last session, to communicate regularly to all members of the Commission, together with the monthly distribution of information relating to mandates, any important articles dealing with the work of the League of Nations in this particular sphere. The list of articles which had not been reproduced would thus mention only unimportant comments or comments of a very trivial character. He ventured to enquire, therefore, whether the Commission still wished the Secretariat to forward that list.

The Commission decided not to continue the list in question.

Review of Arab Press.

Lord LUGARD asked whether there was any point in continuing to draw up the review of the Arab Press. That information, in the nature of things, could only be communicated very late and was by that time out of date. Moreover, the views of those newspapers, a large number of which reached members of the Commission, were generally so tendentious that they could hardly be taken seriously into consideration.

M. CATASTINI, replying to a question by M. Rappard, explained that it was materially impossible to expedite the distribution to members of the Commission of the list of articles in question, which was drawn up by a well-known Paris expert for the special use of the Mandates Section.

The Commission decided that it was unnecessary to continue this review.

Date of the Next Session of the Commission.

After discussion, *the Commission decided that, in principle, its next session should open on October 26th, 1931.*

TWENTY-FOURTH MEETING

Held on Wednesday, June 24th, 1931, at 4 p.m.

Syria and the Lebanon: Questions raised as a Result of the Hearing given to the Accredited Representative.

M. de Caix, former Secretary-General of the High Commissariat of the French Republic in Syria and the Lebanon, accredited representative of the mandatory Power, came to the table of the Commission.

The CHAIRMAN thanked M. de Caix for kindly consenting again to come before the Commission, which desired to obtain some further information from him.

PROCEDURE CONTEMPLATED BY THE MANDATORY POWER WITH A VIEW TO THE CONCLUSION OF TREATIES WITH SYRIA AND THE LEBANON.

M. RAPPARD recalled that M. de Caix had spoken in his statement of treaty intended eventually to replace the mandate. The Commission had raised the question whether the mandatory Power contemplated the conclusion of a treaty, not only with Syria, but also with the other political entities of the mandated territory.

M. DE CAIX stated that the mandatory Power had always had the intention of concluding, on the one hand, a treaty with Syria and, on the other, a treaty with the Lebanon. He pointed out that these two States were expressly mentioned in the mandate. There was only one mandate but, in reality, it was a dual one, as it applied to two distinct countries.

M. RAPPARD pointed out that, if one treaty were concluded with Syria and another with the Lebanon, neither of them could be applied to Latakia, to the Sanjak of Alexandretta or to the Jebel Druse.

M. DE CAIX pointed out that Alexandretta was a Syrian province enjoying a certain measure of autonomy. The treaty with Syria, therefore, would apply to Alexandretta, the Syrian Government having to respect the status of the Sanjak, which, to a certain extent, had an international bearing. On the other hand, the treaty with Syria would not apply to the Jebel Druse or to Latakia, autonomous provinces for which special arrangements should be contemplated for the future.

M. RAPPARD noted that France contemplated the conclusion of a treaty with the Lebanon, but that there was no question of it in the letter addressed by M. Ponsot to M. Briand.[1] The Commission had merely been notified by M. de Caix of an intention on the part of the French Government. If M. Rappard was not mistaken, the treaty which would be concluded with Syria would apply subsidiary to the Sanjak of Alexandretta.[1]

M. DE CAIX pointed out that this treaty would apply, *ipso facto*, to the Sanjak of Alexandretta, subject to the rights which it possessed.

M. RAPPARD concluded from the information given that two parts of the territory under mandate—the Jebel Druse and Latakia would remain unbound by the treaties.

He wished to ask a second question. The report and letter from M. Ponsot to M. Briand, together with M. Briand's letter to the League of Nations,[1] mentioned a treaty relating to Syria which was intended to define the conditions of applying the mandate with a view to taking into account the development accomplished and the progress attained. M. de Caix had spoken of future development of the situation. M. Rappard asked if it could be understood that the treaty in question merely aimed at fixing a new method of applying the mandate or whether it had any other object.

M. DE CAIX replied that the terms of the treaty were not yet fixed, and that it was not therefore possible to indicate its exact scope. It was conceivable that this treaty would serve to apply the mandate while preparing at the same time for the future regime or that it would refer only to the latter. In other words the basis of the treaty might be very similar to that of the Anglo-Iraq Treaty or it might cover both the intermediary period and the post-mandate period.

M. RAPPARD pointed out that M. Ponsot and M. Briand spoke of a treaty intended merely to change the method of application of the mandate. M. de Caix spoke of two other possibilities. There were, therefore, three possibilities, among which that mentioned in the two aforesaid letters would lapse; the question involved was whether the future treaty would be in accordance with the intentions of M. Ponsot and M. Briand, while preparing for a still more developed State, or whether it would merely define the relations between France and these territories without reference to Article 22 of the Covenant.

M. DE CAIX replied that the treaty might refer to the post-mandate period.

M. RAPPARD asked M. de Caix if he considered that the Mandates Commission was from that moment informed by the mandatory Power of its intention to terminate the mandate.

M. DE CAIX thought that this was a very delicate question. The mandatory Power had not expressed its intention of terminating the mandate on a certain date; the statements made by its representatives only indicated a possibility which would certainly be realised before very long.

M. RAPPARD asked whether this possibility applied only to Syria or if it also included the Lebanon.

M. DE CAIX replied that in general it included both States.

M. RAPPARD concluded that negotiations were undertaken at the same time with Damascus and with Beirut; these negotiations might result in two treaties, each establishing the post-mandate relations between France and the two territories respectively.

M. DE CAIX pointed out that no negotiations had been undertaken; the mandatory Power was merely studying the provisions of possible treaties.

M. RAPPARD noted that M. de Caix was not speaking in his own name but as the accredited representative of the mandatory Power.

CONVENTIONS REGULATING THE TRANSIT OF MINERAL OILS OF THE IRAQ PETROLEUM COMPANY, LIMITED, THROUGH THE TERRITORIES OF SYRIA AND THE LEBANON (*continuation*).

M. RAPPARD pointed out that the report on Palestine and Transjordan contained the text of a Convention between the Iraq Petroleum Company and Palestine relating to Iraq petroleum. As M. de Caix had mentioned the conclusion of a similar convention for Syria, the Commission had asked that it might be supplied with a copy. There were, in fact, two Conventions which, though not identical, were very similar. He asked whether the outlet of the pipe-line on the Mediterranean would be in Syria or in the Lebanon ?

M. DE CAIX replied that it would be in the Lebanon. He pointed out that he had at the same time as the Convention concluded with Syria communicated to the Commission the Convention concluded with the Lebanon. The two Conventions were, moreover, exactly similar.

---

[1] See document C.352.1930.VI.

M. RAPPARD said the Conventions interested the Commission for two reasons. In the first place, because they made all kinds of exceptions to equality under the law; the Company in fact received the benefit of a fiscal position which was in every way privileged. The Conventions also interested the Commission, because the question might be raised whether all the concessions granted to a foreign company had been exclusively in the interest of the territories. M. Rappard realised that this question arose still more directly in respect of Palestine under the British mandate than of the two territories under French mandate.

He drew M. de Caix's attention to two passages in these Conventions which seemed to him somewhat contradictory. The first was worded as follows:

[*Translation.*]

" The duration of the concession shall be for 70 years from the date of the signature of the present Convention.

" If the Company foresees that, on the expiry of the said period, it will still have petroleum from Iraq or from any other source, to forward in transit through the territory of the State and if it submits a request to renew the present Convention within at least six months before the date of expiry of the said Convention, the Government undertakes to examine this request with the greatest sympathy and with the desire to grant the Company the renewal of its concession on the conditions which are most reasonable at the time."

On the other hand, a few paragraphs later, the following text appeared:

[*Translation.*]

" On the expiry of the said period of 70 years or if notice of abandonment is given after the expiry of 25 years from the date of signature of the present Convention, the rights granted to the Company by this Convention shall be cancelled, and the entire pipe-line, the pumping-station, storage tanks and other immovable property, situated in the territory of the State and used for the Company's operations, shall become the property of the Government without any compensation."

M. Rappard concluded from these paragraphs that, on the one hand, the Company might have the firm hope in 70 years of obtaining the renewal of its concession. On the other hand, the case was not the same with the second quotation. This second passage appeared to justify perhaps the concessions granted to the Company, while the first passage seemed completely to deprive Syria of any future advantage from these concessions.

M. DE CAIX, like M. Rappard, had been struck by these two passages, but he thought means could be found to reconcile them. The first passage provided for an application by the Company for the renewal of its concession. The second passage provided for the possibility that the Company, for any reason, might not request the renewal of the concession. If it applied for renewal, the reason for granting the concession still held good—namely, the existence in Iraq of petroleum which it was profitable to export through the territories at present under French mandate. In this case, the States under mandate might have no interest in taking the material which they could only put to the same use.

M. RAPPARD concluded that, if the Company were interested in the prolongation of the concession, it was assured of such prolongation. In fact, the concoɪssən would only be withdrawn when it had lost all value.

M. DE CAIX said he could not see what interest the States now under mandate could have at the time when the contract expired, in preventing the oil from leaving the country—that was to say, in taking over all the Company's material. It must not be forgotten that the oil did not originate in the territories under French mandate but in Iraq, and that it was therefore the Company holding the concession for the oilfields which could convey it to those territories. The only thing the States under mandate could do was to authorise or refuse to authorise the passage of the oil through their territory.

M. RAPPARD said the States under mandate could fix what conditions they pleased.

M. DE CAIX agreed. He added that he had not said that, on the expiration of the concession, it would be renewed in the same terms. It was probable and indeed certain that, as soon as the Company began to do well, and it asked for the renewal of the right of passage, the Syrian and Lebanese fiscal administrations would assert their rights.

M. ORTS said that it appeared from Article I of the Convention that it was a question of a concession. He asked M. de Caix to explain how he reconciled Articles IV, V, XII and XIV of the Convention in question with Article 11 of the Mandate for Syria and the Lebanon.

Article IV provided for exemption from import taxes with an exception in the case of such mineral products as the Company made available for local consumption. Article V accorded the same exemptions for supplies and material, with an exception in the case of supplies sold by the Company inside the country. Article XII gave the Company very extensive exemptions from taxation (income tax and land tax). Article XIV gave the Company reduced railway rates on existing lines and left the Company the exclusive use of its own lines.

Article 11 of the Mandate for Syria and the Lebanon, however, required that:

" Concessions . . . shall be granted without distinction of nationality between the nationals of all States Members of the League of Nations . . . provided that this does not involve either directly or indirectly the creation of a monopoly of the natural resources in favour of the Mandatory or its nationals, nor involve any preferential treatment which would be incompatible with the economic, commercial and industrial equality guaranteed above. "

That sentence appeared to be applicable to the case before the Commission. He asked M. de Caix whether he considered that the provisions of the Convention to which M. Orts had referred, giving the concession-holder exceptional advantages over and above that of obtaining the concession itself, were not incompatible with the provision he had quoted of Article 11 of the mandate ?

M. Orts did not think that M. de Caix would argue that Article 11 referred to concessions for the development of natural resources. If the authors of the mandate had in fact been in a position to foresee that concessions for the development of the natural resources of a neighbouring territory might be granted, it was probable that, in their anxiety not to grant any privileges, they would have applied the same provisions to concessions of this particular kind. Further, it might be granted that the present concession was in fact exploiting a natural resource of the country, that was to say, the resource resulting from a geographical situation which made the territory the most favourable outlet for the oil-fields of Iraq.

M. DE CAIX was himself convinced that the Conventions concluded between Syria and the Lebanon and the Iraq Petroleum Company, Ltd., did not infringe the principle of economic equality. This might happen in the present case in two ways: in the first place, if the Conventions promoted the sale in the country of one oil to the detriment of others. Such was not the case, however, since under the terms of Article IV it was expressly provided that the Company would pay on the oil sold in Syria the same taxes, including duties on importation, as any other Company selling oil in the country.

Economic equality might also be violated if the Company were given a monopoly of the exploitation of the natural resource to which M. Orts had referred, when speaking of the geographical situation of the territory under mandate.

No doubt the Company was being given great advantages: but there was no article in the Conventions which excluded from those advantages any other company desiring to construct a pipe-line. The possibility of the transport of oil extracted by another company submitting similar conditions was not in any way excluded; the principle of economic equality could only be infringed if the concession to transport oil through the country was reserved to a single privileged company. This was in no way the result of the Conventions concluded with Syria and the Lebanon.

M. ORTS thought M. de Caix would admit that the advantages given to the concessionary Company exceeded the limits of common law. M. de Caix appeared to consider that the conditions of this concession did not infringe any provision of the mandate. Must it be concluded that the mandatory Government was of opinion that it could multiply in the territories under its mandate concessions of various kinds to foreign nationals, concessions which would have the same advantages beyond the limits of common law ? In other words, did the mandatory Government consider that it was possible to have in the country a special class of undertaking which was exempted from common law and enjoying privileges in matters of such importance as the application of taxation laws and Customs tariffs, without infringing the system known as economic equality ?

It was very probable that the mandatory Power would not be asked to grant any other concession for a pipe-line. It was not possible to picture the sub-soil of Syria traversed by several parallel pipe-lines from Iraq to the Mediterranean; but the advantages given to one concession-holder might also be given to others and it was possible to imagine a number of concessions for other purposes for which other privileges might just as well be claimed.

M. DE CAIX replied that the advantages given to the concession-holder might go beyond common law, but they were not without analogy in the shape of the advantages granted to all new industries established in mandated territories. New industries were given freedom from Customs duties for their equipment and sometimes even for their raw materials. Similarly, educational establishments were exempted from Customs duties on the supplies they required. The precedent thus created was merely extended in the case of the Iraq Petroleum Company. M. de Caix added that there was no reason to fear that the number of concessions enjoying the same privileges would be increased. Apart from a concession for oil, what other concessions would Syria and the Lebanon have an interest in granting on such advantageous terms ? Other industries could be attracted to the country without the benefit of the same exemptions and the same advantages. Such a matter must not be judged only from the purely legal standpoint. It must be remembered that the Syrian territory had been obliged to grant to the Iraq Petroleum Company equal rights with those granted by a neighbouring territory; otherwise the country ran the risk of seeing its geographical advantages neglected.

M. ORTS observed that it might then have been the bad example of others, which, in this particular case, had determined the policy of the mandatory Government.

M. DE CAIX did not think it could be said that, even in following a bad example, the principle of economic equality had been infringed. This could only happen in the event of a refusal to grant an identical concession to another oil company established in Iraq on the same conditions as those applying to the Company with which Syria and the Lebanon had negotiated. In the present case it was not the principle of economic equality but the fiscal administrations of Syria and the Lebanon which had had to submit to derogations and apparent sacrifices.

M. ORTS said that such criticism would presumably be addressed to the mandatory Government.

M. DE CAIX agreed that the criticism might be made: but he thought it was a matter of appreciation and that it was necessary to take account of the facts.

In view of the interest of the native population in having the pipe-line brought across the territory, it was probable that the Government of those countries would have granted the concession

even if the mandatory authorities has not been there to carry out the negotiations. In reality neither the Lebanese nor Syrian State had suffered any loss. They merely refrained from taxing a source of riches which the country would not have if it did not attract it there by offering as good terms as could be found elsewhere. Even apart from direct taxes, the passage of the oil would benefit the Syrian and Lebanese Treasuries. If the country had not granted sufficiently satisfactory conditions to ensure that the pipe-line would be installed in the territory, Syria and the Lebanon would have been still less capable of taxing the oil. Was it better to benefit less from a source of riches and attract it to the territory or to try to benefit more and see the wealth go elsewhere ? That was the whole question.

M. Orts said that, according to M. de Caix, there would be no violation of economic equality unless another Company with the same business aim was refused a concession on the same terms. He wondered, however, whether the principle of economic equality did not apply in the case where a company which asked for a concession other than a concession for a pipe-line were refused particular advantages. It was possible to imagine a number of privately owned undertakings, which, in order to obtain the same privileges, would be prepared to maintain that their activities created new wealth in the country. That might well apply to any undertaking of a kind not hitherto represented in the country, or any undertaking seeking to develop a new form of cultivation. The precedent created in favour of the Iraq Petroleum Company might have far-reaching consequences unless an arbitrary situation were maintained and advantages granted to one and withheld from another without regard to the principle of equality.

M. de Caix did not hesitate to reply that the advantages granted to the Iraq Petroleum Company would certainly be refused to companies established for other purposes. The advantages in question had been granted to that Company in order to encourage an industry which would not exist in the territories under mandate if certain concessions had not been made. All that could be required in the name of commercial equality was that the same advantages should be granted to all other companies engaged in the same industry. But while the mandatory Power had done everything which it thought necessary to attract to the territories under mandate, this new industry which had special requirements that did not mean that, by this very fact, it had undertaken and would be bound to grant identical advantages to other industries. All that could be demanded was that it should offer the same advantages to industries of the same kind.

M. de Caix recalled that M. Orts had taken as an example the introduction of a new cultivation. All the companies concerned in such a venture must clearly receive the same treatment. For instance, fiscal exemption might be granted for a few years in order to encourage this new culture; the principle of economic equality did not seem to require that an agricultural company should enjoy the same advantages as a petroleum company.

M. Orts wished to ask M. de Caix a last question which might seem to him unexpected. He would like to know whether the mandatory Power considered that, in pursuing its business of sending petroleum through the territory, the Iraq Petroleum Company was performing an essential public service.

M. de Caix considered that this question was rather subtle. It could not be said that a pipe-line conveying oil from the entry to a country to its exit was a public service. It could only be considered as such if certain articles of the Convention were realised—for example, those granting the right to construct a railway which could be opened to the public under certain conditions, a railway, moreover, which the Company would have to construct at its own expense, as the Commission would certainly have noticed, seing that there was nowhere in the Conventions any question of contributions from the finances of the territory under mandate. In view, however, of the result which, rightly or wrongly, was expected from the transit of the petroleum, while this could not be called a " public service ", it could, at any rate, be called a service of public utility; if it had not had this character, the company would not have been granted so many exemptions. It was not, however, a public service within the usual meaning of the word.

M. Orts asked whether the works for the construction of the pipe-line could be considered as essential public works.

M. de Caix replied that there was no question of public works properly so called. The enterprise in question was considered to be of great interest to the territory, an interest which in some circles had been regarded as essential.

The Chairman enquired under what law the mandatory Power would be able to proceed to expropriate landowners who might be required to hand over ground for the passage of the pipe-line.

M. de Caix replied that it was a common practice to require landowners to construct pylons on their property for the distribution of electricity, which was a public utility service. Accordingly, he could not see why, if the country really hoped to derive benefit from the passage of the oil through its territory, certain expropriations could not be made to ensure it. Such a Convention, moreover, should not be considered from a purely legal standpoint, but should be in relation to the social and geographical circumstances of the country. In the case in point the mandated territory included some 400 to 500 km. of land from the frontier of Iraq to Tripoli. The land for certainly three-quarters of the distance was absolute desert, so that there was not much risk of inconveniencing many landowners if the pipe-line were carried through their property.

The country between Homs and Tripoli, which was cultivated, and even the immediate outskirts of Tripoli was such that, apart from the gardens, the passage of the pipe-line could not give rise to any serious inconvenience. Even if the proposed expropriations might raise an interesting legal question, there was no practical difficulty.

The CHAIRMAN noted that M. de Caix had said that the case constituted an exception to common law.

M. DE CAIX agreed, and pointed out that the advantages granted reflected the necessity for Syria to make certain sacrifices in order that the pipe-line might be laid through the territory. It was not an exceptional case. Similar action was always taken when it was desired to set up certain industries in any country. Sometimes, in order to ensure the establishment of an industry in a country, it was sufficient to grant Customs exemption on the boilers or necessary machinery. In other cases, the exemptions had to be more considerable. The Government granted them in proportion to the benefits it anticipated from the creation of an industry and which seemed to it to compensate largely for the advantages accorded.

Count DE PENHA GARCIA observed that M. de Caix had recognised that the Mandates Commission might feel some anxiety as to whether the interests of the territory had been adequately protected. He had said that Syria had been placed in a somewhat difficult position owing to the fact that a Convention already existed with a neighbouring mandated territory. Count de Penha Garcia would be interested to know whether the two mandatory Powers concerned had first come to an understanding, with a view to defending the interests of the two territories against those of the Iraq Petroleum Company, and whether negotiations had taken place between the two Governments, in order to obtain the maximum advantages for the respective territories.

M. DE CAIX said that it would be impossible for him to say what had been the minimum concessions required to ensure the laying of the pipe-line. It did not seem that there had been any understanding between the two mandatory Governments with the idea of making the Iraq Petroleum Company pay as high a price as possible.

M. RAPPARD thought it regrettable for the mandated territories that there should have been two countries and only one company. If there had been one mandated territory and two companies, the country would have been master of the negotiations to such a degree that it might even have been able to impose a right of passage on the oil.

He wished to go further into the question raised by Count de Penha Garcia. He suggested that the policy followed by the mandatory Power in Palestine might lay it open to the suspicion of having subordinated the interests of its ward to its own interests, seeing that the Company was of the same nationality as the mandatory Government.

He recognised that the position was not quite the same for France. He understood, however, that the mandatory Power was not indifferent as regards either the fate of the Company or that of the pipe-line. It was not indifferent to the fate of the Company owing to the capital involved. Nor was it indifferent to that of the pipe-line as it might be in the national interests of the mandatory Power, apart from the interests of the mandated territory, to allow the mandatory Power to have under its political control an oil port in the Mediterranean.

There was a last and interesting question which the Commission could not ask the accredited representative of Great Britain, as Great Britain administered Palestine directly, whereas in the case of Syria and the Lebanon there were local Governments which accepted the advice and assistance of a Mandatory. He would like to ask M. de Caix whether the local Governments, which were actuated entirely by local interests, had in that particular case lent a willing ear to the counsels of the mandatory Power.

M. DE CAIX stated that it was not for him to discuss any particular reason for which the mandatory Power desired that the oil should reach one of the ports of the territory under mandate, or how its attitude had been influenced by economic interests and the rather sporting idea of doing as well as the neighbouring territory. Local public opinion, both Syrian and Lebanese, was very anxious that the pipe-line should be installed. As regards the Governments a distinction must be made; the Government of Syria, which was a provisional Government set up by the High Commissioner, did not possess the same right of criticism as a Government with an elected Parliament. In the Lebanon, however, where such a Government did exist, there was a very strong feeling in favour of the oil being brought to Tripoli, and the population of Tripoli in particular was very attracted by this prospect. The Convention had been ratified without difficulty and with a satisfaction which was specially apparent among the inhabitants of Tripoli, who, however, had been more accustomed to finding fault with the mandatory authorities than giving evidence of their contentment.

M. VAN REES only wished to ask one question. He would like to know in what way the accredited representative regarded the profit which the territory under mandate would derive from the concession granted to the Iraq Petroleum Company.

M. DE CAIX pointed out that an immense sum would be spent, apart from the actual purchase of the material, for the laying of the pipe-line. Labour gangs would be working in the desert, where so far there had been absolutely no demand for labour. Later on there would have to be gangs for the upkeep of the pipe-line, since it appeared that part of it would have to be inspected every year. As a result money would remain in the country in the form of wages. In addition, an oil-refinery would probably be set up at Tripoli for domestic consumption in Syria and the Lebanon. This would employ a certain number of workers. He had heard from persons competent to express an opinion, who would not be likely to exaggerate the importance of the pipe-line to the country, that several thousands of workers would find a means of livelihood as a result of the activity which would be the outcome of the existence of the pipe-line.

M. RAPPARD had a question to ask as to the circumstances of the negotiations which had resulted in the two Conventions. Those Conventions were practically identical and even contained the same odd statements. In the French text, for example, the following sentence occurred:

" tous objets ou matériaux *importés* ou *exportés* par les employés de la compagnie..... seront assujettis aux droits *d'importation* en vigueur ". He had consulted the English text and found that even on this point the two texts were identical.

M. DE CAIX was glad to note that the drafting error was due to the initiative of the English authors of the first Convention not to the French authors of the second.

M. RAPPARD observed that he had pointed out the mistake, not from any satisfaction at having discovered it, but in order to determine how the negotiations had been carried out. M. de Caix had just supplied him with an answer, and it could be deduced from his remarks that, in the first place, negotiations had been instituted between Palestine and the Iraq Petroleum Company. He imagined—though he would like to be further enlightened on the point—that, armed with that draft Convention, the Company had then presented itself in Syria and the Lebanon, quoting the advantages obtained from Palestine and asking whether the territories under French mandate were prepared to grant it similar advantages.

M. DE CAIX could not give a definite reply, as he was not familiar with the development of the whole negotiations. It certainly appeared that the scheme had originated in Palestine and one fact must not be forgotten—namely, that the Convention concluded with Palestine was dated January 5th, and those concluded with Syria and the Lebanon March 25th.

M. RAPPARD directed M. de Caix's attention to the significance of that point. The dates of the signature of the agreements were certainly important, but not decisive. If it were possible to convince the Commission that the British mandatory Power had had to accept whatever terms the Company offered, in order to ensure the laying of the pipe-line that would explain the concessions made. But it was also conceivable that the negotiations might have been opened long before the conclusion was reached, and that the Company had made a point of being able to say in Jerusalem or in London: " That is what the French are offering us ".

M. DE CAIX replied that he was not sufficiently familiar with the history of the negotiations to be able to reply. He had not thought to enquire where the text had been prepared. He would merely say that, had he been responsible, he would have signed the Convention with a clear conscience. It cost the territories nothing. All that could be said was that there would be a lack of benefits, because no provision had been made for the payment of transit duties.

M. RAPPARD thought that the benefits lost were enormous, and even greater if account were taken of the exemptions that had been granted.

M. DE CAIX agreed, but repeated that the question was to ensure that the territory under Franch mandate should profit from riches over which it had no control. Nothing was being taken from the territories. The most that could be said was that the territories had not been assured of obtaining sufficient from a source of wealth which they did not possess.

Mlle. DANNEVIG said that she was not an expert in big industrial concerns, but that she had been somewhat surprised at finding a private industrial company treated as the equal of two of the greatest European Powers. It might be observed by reference to Article XII of the Convention with Palestine that the Company's activities would necessitate schools and a police force, etc., in the interests of its staff, but that the cost of those various institutions would devolve on the mandated territory, the Company not being liable for any part of the expenditure. That appeared to her an extraordinarily liberal measure, and she enquired whether the Convention with Syria embodied the same provisions. She observed that, in her own country, if a concession were granted for hydraulic power the concessionaire had to pay certain dues to cover the public expenditure required to provide schools, police, etc.

M. DE CAIX said that he was not qualified to reply concerning the attitude of two Governments — one of which, moreover, was not his own—towards a financial undertaking. As regards welfare and education he thought that far from involving the finances of Syria and the Lebanon, the Convention contained a provision to the effect that the Company in certain cases should be responsible for the expenditure on schools and necessary social assistance for its employees. The Company had even offered to set up these organisations under certain conditions. Mlle. Dannevig had spoken of hydraulic concessions in Norway, but he thought that there was a slight difference: the waterfalls in question were actually in Norway, whereas the oil in the present case was in Iraq, and it was necessary to get it into Syria.

Mlle. DANNEVIG agreed, but pointed out that the pipe-line would be in Syria.

The CHAIRMAN thanked M. de Caix for his explanations.

TWENTY-FIFTH MEETING

Held on Thursday, June 25th, 1931, at 10.30 a.m.

Conventions regulating the Transit of Mineral Oils of the Iraq Petroleum Company, Limited, through the Territories of Palestine, on the One Hand, and Syria and the Lebanon, on the Other Hand *(continuation)* **: Observations of the Commission.**

Lord LUGARD desired to repeat his opinion that, in this question of the pipe-line, there were two quite distinct—though closely related—principles. There was, first, the question of economic

equality and, secondly, the question whether the interests of the territories under mandate had suffered by the terms of the concession.

The Company paid no import tax on oil used for its own works, or on stores and construction material used for its operations or by its employees, but it paid harbour dues of all kinds (Article VI) till it possessed its own port. It would be given reduced rates on the Palestine railways, and it might construct a railway for its own use only, on which it must carry Government stores and personnel at special rates, and the Government had the very important right of purchasing the railway later. The Company was not liable to taxation, though its employees paid a tax on their salaries. Land required for the actual pipe-line and its appurtenances was rent free: other land must be acquired on lease. The oil in transit naturally paid no export tax, just as the minerals in transit through Tanganyika from the Belgian Congo paid no tax, so far as he was aware. In that case, the Belgians had, he believed, an enclave of their own at Dar-es-Salaam, just as the company had its own port.

These privileges and exemptions seemed to Lord Lugard to be small in comparison with the benefits which accrued to the country by influx of capital, by employment of labour, and by the increase of shipping in its ports. That was, of course, merely a matter of opinion. He imagined that the Government of Palestine would later acquire the railway, which should be of great value, since it would presumably carry much of the traffic to Iraq. The Company might not use it for general traffic and therefore would, he supposed, be glad to sell it. He was quite ignorant of the many matters necessary to form a judgment on the bargain as it affected the interests of Palestine. He had not given very special attention to the terms of this agreement, for it had seemed to him to be obviously to the advantage of Palestine, but he had now read it carefully and, so far as he could judge, he thought it was a good bargain.

The concessions granted were more or less the customary terms given to a contractor for a public work, and the railway was undoubtedly a public work. If the Government had itself constructed the pipe-line and railway through Palestine, and had engaged a large staff, imported the necessary plant, etc., it would have paid no Customs duties or taxes. If, instead of doing so, it employed a contractor, or in this case a concessionnaire, Lord Lugard did not see that the conditions of economic equality were violated, because the terms usually granted to a contractor were given to the concessionnaire.

M. Rappard had said: " It would be difficult to approve the attitude of a mandatory Power which overlooked the institutions of the mandated territory in favour of a company of the same nationality as itself " ,[1] and M. Orts had added that the advantages gained by Palestine, however interesting they might be, did not alter the fact that the mandatory Power also derived advantages which, though of a different kind, were of great importance. It was, however, the mandated territory which was paying the whole cost of the scheme in the form of exemption of taxation and Customs duties over a period of seventy years. This was the unpleasant feature of the scheme. Later, M. Rappard, in reply to Lord Lugard, [2] inferred that the desire of Syria and Palestine to have the pipe-line was due to the desire of France and England to have its exit at ports on the Mediterranean under their respective influences, and did not arise from the interests of the mandated territory.

It was most desirable that the members of the Commission should frankly state what was in their minds. But the above remarks could hardly fail to be read as a very serious imputation on the good faith of the mandatory Power, which Lord Lugard was sure was not intended. Moreover, as Lord Lugard did not believe them to be in any way substantiated, he claimed this opportunity of giving his view, though it happened that the Mandatory was his own nation. He should have done so at the time the remarks were made, had they been fully translated as they now were in the Minutes.

First, as regards M. Rappard's charge that the Mandatory had made free with the institutions of Palestine in order to favour a company of the same nationality as the Mandatory. The company was registered in London; but, as the Commission knew, four different nations participated. The company must be registered somewhere, and Lord Lugard was not aware that Great Britain derived any advantage at all from the fact that it was registered in London. Secondly, as regards the allegation that the advantage gained by the Mandatory was far greater than that gained by Palestine or Syria, Lord Lugard had already said that, in his opinion, the bargain was greatly to the benefit of the mandated territories. That view had been emphatically expressed by Dr. Drummond Shiels as accredited representative for Great Britain and, as Lord Lugard had understood him, by M. de Caix on behalf of France. Whether they and he were right or wrong, Lord Lugard was certain the view was honest and truthful. There was, of course, no question of closing the port to other nations.

---

[1] See Minutes of twentieth meeting, page 147.
[2] See Minutes of twentieth meeting, page 148.

Lord Lugard would like to add on his own behalf that he could see no reason why a mandatory Power which had undertaken a difficult mandate and spent large sums of money upon it should not derive benefit, provided it was not to the disadvantage of the mandated territory.

Exception had also been taken to the fact that any dispute between the parties to the agreement—namely, the Government of Palestine and the concessionaire—should be referred to arbitration and not to the local courts. It might be that, before seventy years had expired, the mandate would have ceased, and probably it had been considered by both parties that the Permanent Court of International Justice would be the best, especially as several nations, as well as Syria, were concerned. In any case, he could see no possible reason for objection,

The oil came from Iraq. Surely that country was entitled to obtain direct access to the sea by the shortest route. That was the principle underlying the Navigation Act of Vienna of 1815 and the Berlin Act of 1885. Iraq had concluded a Convention with four nations in regard to the oil of, Mosul and with this concessionaire; and Palestine and Syria, the two countries through which the pipe-line must run, had, no doubt, made the best bargain they could.

M. Sakenobe said that, in his view, the concession did not infringe the principle of economic equality. He proposed to confine himself to stating two principal reasons for his attitude.

The B mandate and the mandate for Syria and the Lebanon contained a stipulation that the mandatory Power should accord complete economic, commercial and industrial equality of treatment to all nationals of all States Members of the League: and another provision stated that concessions should be granted without distinction of nationality, etc. It was plain, therefore, that the authors of the mandates made a clear distinction between the general principle of economic equality and the question of concessions. On the other hand, the first paragraph of Article 18 of the Mandate for Palestine prescribed equality of treatment for all nationals of States Members of the League in matters of taxation, etc. That was a provision of economic equality; but there was no mention of concessions, and the conclusion was justified that the mandatory Power had a free hand in regard to them.

In the second paragraph of Article 18, however, it was stated that, " subject as aforesaid . . . the Administration of Palestine may . . . impose such taxation and Customs duties as it may consider necessary, and take such steps as may be best to promote the development of the natural resources of the country ". It had been argued during the previous discussions on the subject that this clause covered the case of concessions. Concessions were included in " steps . . . to promote the development of the natural resources ", and that such steps should only be taken by the mandatory Power subject to paragraph 1 of Article 18, so that the mandatory Power was restricted by the first paragraph in giving concessionaires certain advantages.

In his opinion, the second paragraph did not refer to concessions. It was noticeable that, in the Palestine mandate, the wording was " steps . . . to promote the development of the natural resources of the country ", and in the corresponding paragraph of the Syrian mandate the wording was, " steps . . . to ensure the development . . . " It was not " steps . . . to develop . . . " The difference of wording between " steps to develop " and " steps to promote or ensure the development " should be noted. It would appear, therefore, that the mandatory Power for Palestine was entitled, with a view to promoting or ensuring the development of the natural resources of the country, to take such measures as special legislation giving legal exemptions for the particular benefit of prospectors and the like, on the understanding, of course, that it respected the principle of economic equality and protected the interests of the population. That was what was meant by the second paragraph of Article 18; it did not refer to granting concessions. Thus, nothing was said with regard to concessions in Article 18 of the Palestine mandate. For this first reason he did not think there was any infringement of the principle of economic equality involved in the concession under discussion.

As regards the nature of the undertaking in question, this could not strictly speaking be described as " public works or works for public services "; but, having regard to the constructional work covered by the project (railways, roads, ports and a pipe-line), it clearly involved the erection of plant which was at any rate in the nature of public works—that was to say, plant capable of being used for public works and services at the close of the concession. On this second ground, also, it appeared to him that the concession did not come within the scope of the principle of economic equality.

M. Rappard said he had no wish to enter into a controversy with Lord Lugard. If, in the course of the discussion, he had himself used vigorous language in putting his points, he had never meant to accuse the mandatory Power. All he had wished to do was to draw attention to certain considerations which he considered fundamental.

He agreed with Lord Lugard that there were two questions before the Commission—that of economic equality, and that of the disinterestedness involved in the tutelage exercised by the mandatory Power. It was not sufficient, for the purpose of justifying the concession at all points, to prove that the operations proposed were profitable to the territory. It was necessary also to consider whether the High Commissioner of the mandatory Power, in championing the interests of the mandated territory, had paid more attention to the interests of the territory than to the interests of the Power of which he was himself a national, and whether the advantages secured by means of large fiscal sacrifices could not have been secured at a lower cost.

If he had to draft the observations of the Commission in regard to this concession, he could not approve it without reservations. While not condemning it, he would draw the attention of the Council to those features which had given rise to uneasiness on the part of some of the members of the Commission—namely, the relation of the terms of the concession to the principle

of economic equality and to the protection of the interests of the mandated territory, which should have first place in the mind of the mandatory Administration.

In conclusion, M. Rappard desired to put an end to all misunderstanding in regard to what he had previously said regarding the Permanent Court of International Justice. On a closer reading of the text, he had found that the only stipulation was that the President of the Permanent Court of International Justice was to be requested to appoint an umpire in the event of a dispute, and not that the Court itself was to be called upon to take cognisance of the substance of the dispute.

M. Orts recalled that the question had arisen in connection with Palestine. A comparison of the terms of the Convention concluded with the Iraq Petroleum Company with those of the second paragraph of Article 18 of the Mandate for Palestine, indicated that the advantages accorded to the concessionaire were, by their very nature, those which the mandate expressly prohibited. It might be said that this was as a dispute over words, but in this case the words were essential, for they revealed the intentions of the authors of the mandate.

A second fact must be remembered—namely, that, as regards Palestine, the privileges in question had been granted directly by the mandatory Administration, without the intermediary of a native Government.

A third fact was that the holder of the concession was a national of the mandatory Power. It was true that an international company had been mentioned, in the sense that it would not have any specific nationality, but that was a notion that did not exist in law. The company had undoubtedly a British legal personality, and the advantages in question, which exceeded the ordinary legal rights and which were apparently prohibited by the mandate for Palestine, had been given by the Mandatory to one of its own nationals.

It was now known that the same Convention, in practically identical terms, had been concluded between the same Company, on the one hand, and Syria and the Lebanon on the other. Article 11 of the Mandate for Syria and the Lebanon was not so clear as Article 18 of the Mandate for Palestine. The concession, however, had, in appearance at least, been granted by native Governments. Finally, it would be difficult, in the case of Syria and the Lebanon, to claim that the Mandatory had wished to grant privileges to one of its own nationals, since the company holding the concession, although French capital was involved, was not French.

Such were the apparent differences between the case of Syria and the Lebanon and that of Palestine.

These considerations weakened the argument that economic equality had been infringed, because they led to the conclusion that a Convention did infringe that principle in Palestine which did not infringe the principle of economic equality in Syria and the Lebanon, and that, the Syrian and Lebanese Governments could legitimately do something which Palestine could not legitimately do.

M. Rappard drew M. Orts' attention to the exact wording of the passage in Article 11 of the Mandate for Syria and the Lebanon. The passage said that the mandatory Power was not to make any discrimination " as compared with its own nationals . . . or with the nationals of any other foreign State ".

M. Orts replied that, in any case, the mandatory Power for Syria and the Lebanon could not be suspected of having been actuated by selfish considerations.

Another question was whether the interests of the mandated territory had been adequately protected when the Convention was concluded. To hold the view that the interests of the mandated territory had not been the principal concern of the mandatory Powers was no condemnation of the mandatory Powers. The erection of the pipe-line was obviously in the political interest of the mandatory Powers. Did that mean that its erection involved no advantage for the two territories under mandate ? In this connection he must say that Lord Lugard had indicated the advantages which the two territories in question would derive from the establishment of the pipe-line much more clearly than had the accredited representatives of the two mandatory Powers themselves. They did not suffice, nevertheless, to justify the fact that Syria, the Lebanon and Palestine would be deprived for seventy years of all revenue that they would normally have obtained from the creation of this industry.

To speak quite frankly, M. Orts could not fail to note the fact that, in presence of a powerful company, the two Powers entrusted with the protection of the interests of the territories under mandate had not taken concerted action to safeguard those interests. They appeared to have endeavoured to play a cleverer game in which, after one of them had given the Company concessions to induce it to bring the pipe-line over its territory, the other had thrown itself at the head of the Company and agreed to exactly the same concessions. It appeared, as had already been said, that the second Convention was not even discussed, and that all that was done was to make a copy of the first Convention and sign it.

He would not dare to say that the interests of the two mandated territories had been protected as they should have been. As M. Rappard also had pointed out, there was no doubt that, if instead of two mandated territories and one company, the negotiators had been one mandated territory and two competing companies, the territory in question, instead of paying the party benefiting from the concession, might have obtained from the holder of the concession payment for the essential advantage of utilising the territory to ensure the practical means of exporting its product.

It might perhaps be objected that, in arguing that the mandated territories had not been sufficiently considered in the matter, there was a risk of exciting local agitation. But, if such considerations were to be taken into account, the Commission would be precluded from any frank expression of its views as to the administration of the mandatory Powers.

To conclude, he was prepared to waive his point of an infringement of economic equality in view of the difficulty of maintaining that view as regards Syria and the Lebanon. But, on the other

hand, he thought the Commission should draw the attention of the Council to the fact that the interests of the two mandated territories had not been protected by the mandatory Powers with all the vigilance which they should have shown in the matter.

The CHAIRMAN remarked that the discussion which had arisen in connection with the principle of economic equality had now assumed a somewhat different aspect. The question now was whether, supposing the principle of economic equality not to have been infringed, the two mandatory Powers had not been faced by another economic and financial Power, and whether they had really done all that they should in the interests of the two mandated territories.

M. MERLIN, referring to the question of economic equality, noted that the discussion had opened on that question and that, in the course of the exchange of views, the original subject of discussion had dwindled until it had practically disappeared, as was admitted by the member of the Commission who had first raised the matter. He considered now that, in examining this question more closely, it might not perhaps be necessary to adhere strictly to the original standpoint and to submit observations to the Council on the subject.

M. ORTS pointed out that he had raised the question without having any preconceived opinion regarding it; such an opinion had now to be formed after examining documents which were not available before and after hearing the explanations given by the accredited representatives.

M. MERLIN quite agreed with M. Orts. He had simply said that the original problem seemed to dwindle and to lose its importance. It was certain that there had been no violation of the principle of economic equality. That principle had been embodied in the mandate in order to prevent the mandatory Power from instituting for its own nationals special benefits which would not be open to others. That had not happened in the present case, since, under the terms of the contract, whenever the principle of economic equality might have been violated, duties would be retrospectively levied.

The second point was to determine whether the interests of the territories had been defended by the mandatory Powers as vigorously as they should have been. The contract was a contract *sui generis*, both in scope and in character, and could not be examined in accordance with the usual procedure An important Company proposed to develop considerable resources capable of changing completely the economic aspect of Iraq, Palestine and Syria. The Company had approached the different States concerned with a view to obtaining the terms it required for the accomplishment of its purpose. What sacrifices had been asked of Palestine and Syria ? Permission to lay down a pipe-line which would end in two ports situated in their respective territories, exemption for the Company's material from import duties which the countries in question would ordinarily be entitled to levy on commercial concerns, and exemption for the Company in the case of a product which would not be consumed in those countries but would pass in transit through them and be consumed elsewhere. The sacrifice demanded of the territories thus affected duties which would not, in any case be levied if the Company did not make use of those territories. There was no question, therefore of any loss of money, but rather of a lack of profit. That was a by no means negligible element, but was largely compensated by the direct or indirect benefits which would accrue to the territories from the laying of the pipe-line and the establishment of oils ports. Lord Lugard had very judiciously pointed out those advantages in his remarks. In addition to the big capital outlay, labour would be required for the construction and upkeep of the works.

M. Merlin agreed with M. Orts that the laying of a pipe-line could not be compared with the building of a railway. None the less, the work in question was important, requiring supervision and upkeep, and fresh centres of activity would be established in the territory. The execution of works of public utility in a colony was generally admitted to have indirect repercussions on the development of that country, since it attracted permanently settlers and, more important still, capital. Lastly, the most important point of all was the establishment of oil ports. Many vessels would put in at those ports and, as a result, money, would be spent there, and a commercial port would certainly develop in connection with this. That was a very important factor from the standpoint of the country's development. All things considered, those advantages, which did not appear in the letter of the contract, had certainly weighed with the mandatory Powers when concluding the negotiations. That was so obvious that the accredited representative of the mandatory Power for Syria had stated that the native authorities of Syria and the Lebanon had made active representations with a view to ensuring the establishment of the pipe-line and of an oil port in their territories, which was clear proof that they did not feel themselves to have been injured in any way. M. Rappard had said that it would have been better had there been only a single territory and two companies; but was it not very probable that in such a case the two companies would quickly have become one, or at least would have acted as such in their negotiations with the various mandatory Powers ?

M. RAPPARD observed that what was regrettable was that there had been no understanding between the two mandatory Powers.

M. MERLIN thought that, in any case, the Commission could not say with certainty in a note to the Council that the interests of the mandated territories had not been sufficiently safeguarded by the mandatory Powers. So serious an affirmation must be supported by adequate evidence. Was the Commission sufficiently conversant with the two sets of negotiations to be able to say that the second contract had not been discussed ? It would be dangerous for it to advance such a statement and to embody it in so serious a document as a communication to the Council.

The CHAIRMAN requested each of his colleagues to state definitely his opinion on the question whether the Commission should submit observations to the Council concerning: (*a*) the fact that

the principle of economic equality was considered to have been violated; (*b*) the fact that the interests of the territory might have been more fully safeguarded.

M. Ruppel pointed out that he had already expressed serious doubts as to whether the benefits accorded to the Iraq Petroleum Company were compatible with the articles of the mandates for Palestine and Syria relating to economic equality. He had carefully reread the documents on the subject and the passages in the Minutes containing the observations of the accredited representatives and the different members of the Commission, and his doubts had not been dispelled. Suggestions had been put forward assimilating the proposed works to public works. He could not accept that view, since, as he had said, the works in question, railways, roads, etc., were not intended for the use of the public.

As regards concessions, M. Sakenobe had maintained that the principle of economic equality did not apply. Here, again, he was unable to concur in the views of his colleague. The text of the mandate was explicit and there was no general exception relating to concessions. Nor could he support M. Orts in his explanations concerning the differences between the mandate for Palestine and the mandate for Syria and the Lebanon. He personally could not detect those legal differences, and, in his view, the question at issue was the same for Palestine as for Syria and the Lebanon.

He agreed, however, with Lord Lugard that the interests of the mandated territory had also to be taken into consideration. The principle of economic equality had been embodied in the mandates partly in the interests of the territories themselves. From that standpoint, it seemed to him that the benefits accruing to the territories from the concession were indirect benefits and were comparatively small. It was not, however, with a view to obtaining such benefits for the territory that the concessions and legal exemptions had been accorded, but for other reasons. M. Ruppel maintained his view that the principle of economic equality had not been safeguarded, and thought that the Commission ought to submit a note to the Council on the subject.

Mlle. Dannevig understood M. Merlin to have said, in reply to M. Rappard, that, if two big companies, competing with one another, had found themselves in the same territory they would have lost no time in coming to an understanding. It seemed to imply that such an understanding was not likely to be brought about between two powerful States when dealing with a single company. Did not that point to a rather strange state of affairs ? Again, a great deal had been said of the benefits which the mandated territories would derive from the concession, but she wondered whether certain disadvantages might not also ensue. It seemed clear, for example, that the territory would have to defray additional expenditure for police supervision over the works. If, in the Syrian desert, the Bedouins damaged the pipe-line, the police would have to find out the perpetrators, and who would have to pay for the damage ? There would also be expenditure on public health in connection with the works, and on water systems, light, etc. The Mandates Commission had to consider whether all that expenditure devolving upon the territory did not materially infringe upon the possible advantages, and it would not be unreasonable if the Commission were to point out those possible disadvantages to the Council and to add that the interests of the territory had perhaps not been so fully safeguarded as they might have been.

Count de Penha Garcia recalled that, from the beginning he had not been very satisfied with the two Conventions and had had the impression that the interests of the territories had not been sufficiently safeguarded. It was unfortunate that the two mandatory Powers had not come to an agreement. Had they acted differently, they might have been able to obtain much better conditions for both territories. Much might be said on the subject of existing and future benefits. One point that had struck him was that no mention had been made of the profits that the Company itself would derive from its concession, extending over a period of seventy years. The territory would have no share in those profits. It was usual, however, in concessions extending over a long period to provide that, after a certain date, the country should derive direct advantage and revenue from the prosperity of the undertaking. Those he thought were the main defects in the two Conventions.

As regards the question whether it was really necessary to submit observations to the mandatory Powers through the Council, Count de Penha Garcia would have some difficulty in replying, as this involved a very serious question of form. To censure mandatory Powers would be a very serious measure, unless it were very clearly demonstrated that the terms of the mandate had been infringed. If he thought that it would be in any way to the advantage of the territories he would not hesitate to urge that the Commission should submit observations to the Council, but he did not think that that would be the case. In the circumstances, he thought the Commission should confine itself to the statements which would be recorded in the Minutes and to drawing attention to them.

M. Merlin, repeating his previous observations, agreed with Count de Penha Garcia that the Commission's views would be adequately seen by a reference to the Minutes.

M. Van Rees recalled that, from the very beginning of the discussion, he had expressed the opinion that the question did not call for a recommendation to the Council. At that stage he had chiefly dealt with the legal aspect of the problem and had arrived at the conclusion that there was no question of a violation of the principle of economic equality.

He had not dealt with the other aspect of the problem, the moral aspect—that was to say, the question whether or not the duties of the guardian had been carried out, because this matter was not within his competence. He knew nothing about this question and did not understand very well on what ground any censure could be based, seeing that the advantages which the two territories might derive from the affair could not be shown in terms of figures, so that any estimate could only be based on hypothesis or supposition. Such a basis would certainly be unreliable,

and in any case insufficient. To sum up, M. Van Rees did not think it necessary for the Commission to submit observations to the Council either on the legal or moral aspect of the problem.

M. ORTS was of opinion that the Commission should formulate observations to the Council.

Lord LUGARD did not think that the question of economic equality arose, or that there was any need to submit observations on the subject. M. Ruppel had expressed the view that the pipe-line and the railway were not public works, as the railway could not be used by the public. The advantage from the standpoint of Palestine, however, consisted precisely in the fact that the Company would not derive any benefit from the railway, but that the latter would be purchassed by Palestine. The Company had built it, no doubt, because it would be difficult to convey the long, heavy pipes across the desert by any other means, and hoped to be able to cover part of the expenditure thus incurred by selling the railway later. The point whether Iraq had not done better than Palestine and Syria out of the bargain concluded with the Company was perhaps open to question. He, personally, was not of opinion that the interests of the two territories had been neglected. He agreed with M. Merlin and M. Van Rees. He thought that there should be no mention of the matter in the Commission's observations, but that the discussion should be recorded in the Minutes.

M. RAPPARD read the following text which might, he said, be taken as a basis for discussion if the majority of the Commission were in favour of submitting observations to the Council. If not, it would serve to indicate his own particular views:

> " The Commission has had occasion to make a careful examination of the Conventions concluded between the Iraq Petroleum Company, on the one hand, and the mandatory Powers for Palestine and Syria and the Lebanon, on the other hand, relating to the establishment of a pipe-line through the mandated territories. These Conventions embody clauses whereby the Iraq Petroleum Company is accorded many fiscal exemptions and other preferential benefits. The exemptions and benefits in question are defined in practically identical terms in the three Conventions communicated to the Commission.
>
> " The Commission first considered whether in this respect the Conventions were compatible in every respect with the principle of economic equality laid down in the mandates for Palestine and Syria and the Lebanon. While stressing the importance of that principle and the undesirability of multiplying fiscal exemptions and differential benefits for the benefit of certain taxpayers and other parties in a mandated territory, the Commission did not think it necessary to formulate any observations on the matter. It abstained from doing so in view of the *sui generis* character of the concessions in question and the declarations of the accredited representatives to the effect that similar exemptions and benefits would be granted to any competitor of the present *concessionnaire*.
>
> " Further, the Commission considered the question whether, in the negotiations which resulted in the signature of these concessions, the interests of the mandated territories had been defended by the mandatory Powers as vigorously as they would have been if those Powers had been free from all anxiety to ensure an outlet for the pipe-line in a port subject to their influence. The economic advantages accruing to the three mandated countries from the passage of the pipe-line through their territory are undeniable. It may be permissible to ask, however, whether, by means of an understanding between the two mandatory Powers the advantages accorded to the Iraq Petroleum Company at the expenses of the local finances could not have been avoided or restricted.
>
> " The Commission confines itself to apprising the Council of its doubts and expressing the hope that the future may justify the policy followed in this particular case by the two mandatory Powers. It trusts also that it may in future be possible for all the mandatory Powers to come to an understanding with one another whenever there is any question of defending jointly the interests of mandated territories."

M. SAKENOBE observed that he had already expressed his opinion on the question of economic equality. As regards the actual concession, it would be difficult for the Commission to say whether that would prove to be to the advantage or disadvantage of the territory. Personally, he was inclined to think that the advantages would far outweigh the disadvantages. The fact that the High Commissioner for Palestine had had this in mind was proved by the explicit statement in the Convention, to the effect that he had taken into consideration the benefits which the mandated territory would derive from the undertaking in question. If, then, the Commission declared that the concession implied more disadvantages than advantages, or that the interest of the territory was not properly safeguarded, it should give proof of that statement. To sum up, he thought that the Commission should not submit any observation to the Council on the matter.

The CHAIRMAN said that he personally agreed entirely with the arguments of M. Orts, M. Rappard and M. Ruppel. It was not necessary therefore for him to repeat them.

Logically speaking, he thought the Commission should submit to the Council, in an appropriate form, its observations, not only on the question of economic equality, but also on that of the interests of the territories. As regards this latter point, in particular, he was convinced that the pipe-line would have been constructed especially in Syria, even if the advantages which the Iraq Petroleum Company had obtained had not been granted, and that, in any case, the haste with which the mandatory Powers had accepted the Conventions seemed to indicate that they had perhaps been more concerned with the interests involved in their oil policy than the interests of the territories under mandate.

The result of the discussion in the Commission was that five members had expressed one opinion (Lord Lugard, M. Merlin, Count de Penha Garcia, M. Van Rees, M. Sakenobe) and five another (Mlle. Dannevig, M. Orts, M. Rappard, M. Ruppel, the Marquis Theodoli), the Chairman having the casting vote. He thought that, nevertheless, his colleagues would wish to consider the matter further.

M. Orts thought that, whatever opinion one might hold as regards the substance of the question, it appeared impossible that such a detailed discussion on a matter which was not without importance should not find some echo in the observations to the Council. He therefore proposed the following text:

> " The Permanent Mandates Commission has carefully considered whether two agreements, worded in almost identical terms, concluded by the Iraq Petroleum Company with the British High Commissioner in Palestine on January 5th, 1931, and with the Lebanese and Syrian Governments on March 25th, 1931, were compatible with Article 18 of the Palestine Mandate and Article 11 of the Mandate for Syria and the Lebanon respectively.
>
> " From this examination, it was concluded that the provisions contained in the above-mentioned articles of the two mandates did not constitute an obstacle to the granting of the advantages conferred by the said agreements on the company, which has received a concession for the construction of a pipe-line both in Palestine and in Syria and the Lebanon.
>
> " On the other hand, the Commission considered it advisable to propose that the Council should request the mandatory Powers for Palestine and for Syria and the Lebanon to consider the possibility of revising certain clauses in the said Conventions, in order to secure a more just equilibrium between the advantages and the privileges accorded to the concession company and the advantages granted by the said Convention to the three countries under mandate. "

Count de Penha Garcia thought that, as the Commission was divided on the subject, it should simply direct the Council's attention to the discussions that had taken place.

Mlle. Dannevig, referring to M. Van Rees' remarks on the moral aspect of the problem, urged that the question was not a moral but an economic one, and that from that standpoint the Commission would be justified in submitting observations to the Council.

TWENTY-SIXTH MEETING

Held on Thursday, June 25th, 1931, at 3.45 p.m.

Syria and the Lebanon: Observations of the Commission.

After an exchange of views, *the Commission adopted its observations regarding Syria and the Lebanon* (Annex 16).

Conventions regulating the Transit of Mineral Oils of the Iraq Petroleum Company, Limited, through the Territories of Palestine, on the One Hand, and Syria and the Lebanon, on the Other: Observations of the Commission *(continuation).*

The Chairman reminded the Commission that, at the previous meeting, two drafts on this question had been submitted by M. Orts and M. Rappard respectively. Those members of the Commission who desired to submit observations to the Council on the question of the pipe-line could therefore choose between these two drafts.

Count de Penha Garcia thought the Commission should endeavour to find some conciliatory formula in order to avoid a division of the Commission into two approximately equal camps on a question of such importance. If the wording of the observations to be submitted to the Council was not too categorical in form, those members of the Commission who did not desire to draw the Council's attention to this matter might see their way to accept a milder text. He proposed, accordingly, a new draft, the first two paragraphs of which reproduced the first two paragraphs of M. Orts' draft, while the third paragraph was in the following terms:

> " The Commission feels bound to inform the Council, however, that, during its discussions on this question, doubts were expressed as to whether some of the clauses of the agreement in question kept the necessary balance between the advantages and privileges granted to the concessionary company and the advantages which would accrue to the two territories. "

M. Ruppel was ready to accept the new paragraph proposed by Count de Penha Garcia. But he preferred M. Rappard's second paragraph to M. Orts' second paragraph.

Mlle. Dannevig and M. Rappard preferred M. Orts' draft.

M. Merlin said he could not accept Count de Penha Garcia's draft, for there was a risk that it might appear to give expression to doubts with regard to the action of the mandatory Power with which he was not prepared to associate himself.

M. Orts observed that the Iraq Petroleum Company had to pay to the Iraq Government annually, even before beginning the work, the sum of £400,000 for its concession in Iraq (exploita-

tion of the oil-fields and construction of a pipe-line over the Iraq territory). Such was the immediate advantage which Iraq derived from the concession.

In order to be able to exploit its concession, the company was necessarily obliged to obtain a passage across one of the territories separating its centres of exploitation from the sea. It was thus in the position, *vis-à-vis* these territories, of an applicant, and it would have remained in this position if the two Mandatories had come to an agreement, in the interests of the two territories under their respective mandates, to benefit from that position. The situation had been manœuvred in such a way, however, that the company, instead of being the applicant, had become the party from which something was required. In the end, therefore, it had been the company which had dictated its conditions, although it might have been possible to impose them on the company. The two Mandatories appeared to have thrown themselves at the head of the company and to have outbid each other in order to obtain the termination of the pipe-line at a port under their influence, and the two territories under mandate had had to pay the cost. In respect of the concession, Iraq had received large payments; as regards the pipe-line, which was essential for the development of the concession, it was Palestine, Syria and the Lebanon which paid. This was the unpleasant part of the Conventions.

M. Orts considered, on the other hand, that, whatever option might be held on the substance of the question, it seemed impossible that the discussion which had taken place in the Commission on a question which, after all, was of considerable importance should not find some echo in its observations to the Council.

M. Van Rees, in reply to M. Orts, observed that it must be remembered, in connection with the annual payments of £400,000 by the Company to the Iraqi Government, that the new Convention took the place of the 1925 Convention, and that, in the interval, the Iraqi Treasury had not received any royalty nor any other annual payments.

On the other hand, M. Van Rees did not see why the fact that the Commission had been informed of the concessions granted in Palestine and Syria and the Lebanon should necessarily lead it to submit to the Council any recommendation. If the Commission wished at all cost to mention the matter in its report to the Council, it could confine itself to saying that it had taken note of the concessions, that it had received and examined them, and that it referred the Council for further information to the Minutes of the session.

In any event, M. Van Rees felt obliged to object to the passage in M. Orts' draft which read:

> " . . . the Commission considered it advisable to propose that the Council should request the mandatory Powers for Palestine and for Syria and the Lebanon to consider the possibility of revising certain clauses in the said Conventions . . . "

In order to be in a position to make such a recommendation, the Commission must be able to base that recommendation on something more valuable than impressions and presumptions. A concrete and unassailable foundation was essential, and this was lacking. He thought, therefore, that the recommendation would be imprudent and even unjustifiable.

Nor could he accept Count de Penha Garcia's draft. In spite of its milder form, the latter gave expression to doubts with regard to the actions of the mandatory Powers with which, like M. Merlin, he was not prepared to associate himself. He accordingly maintained his standpoint and was strongly opposed to the three drafts submitted.

M. Rappard said the Commission must, after all, take account of the views of those members of the Commission who felt doubts as to the action of the mandatory Powers—doubts for which there were, in any case, very strong grounds. The sole source of the strength of the Mandates Commission was its independence and impartiality. The Commission must not give the impression that, if it had not been France and Great Britain that were involved, it might have displayed more freedom in its observations. It was essential that no one should suspect that the Mandates Commission allowed itself to be influenced by the question of the standing of the mandatory Power.

M. Van Rees replied that it would be unfortunate if the Commission allowed itself to be guided by such considerations. It had given proof of its spirit of impartiality and independence on several occasions, and it was not necessary to multiply them. Moreover, M. Van Rees did not think it necessary to pay too much attention to the impressions of public opinion. He, personally, was convinced that he had always shown an impartial and independent spirit, and that was enough for him.

M. Merlin added that all the arguments put forward in support of the draft observations before the Commission were beside the point. They were all in the nature of suppositions and impressions. If it were permissible to voice such suppositions and impressions in the course of discussion, it was not in his view poss ble to make them the subject of an official recommendation to the Council. A recommendation to the Council was too serious a step to be taken on such uncertain grounds.

The Chairman suggested that it might meet the objections of M. Van Rees and M. Merlin if the words, " by certain of its members ", were inserted in Count de Penha Garcia's text after the words " doubts were expressed ". He asked M. Rappard and M. Orts whether, if the majority of the Commission accepted Count de Penha Garcia's draft with that modification, they would themselves withdraw their drafts, in order to facilitate a unanimous decision by the Commission.

M. RAPPARD said that, in a spirit of conciliation, he would agree to Count de Penha Garcia's text as amended. He hoped the other members of the Commission would make a similar sacrifice, so as to enable the Commission to submit unanimous observations to the Council.

Count de Penha Garcia's draft observations as amended were adopted unanimously (Annex 16).

General Conditions which must be fulfilled before the Mandate Regime can be brought to an End in respect of a Country placed under that Regime (continuation).

The Commission examined the draft conclusions submitted by M. Orts as a result of the decision taken by the Commission at its twenty-first meeting.[1]

PREAMBLE.

The preamble was adopted without observations.

CHAPTER I.

The first three paragraphs of Chapter I which, in the draft submitted to the Commission, read as follows:

" Whether a people which has hitherto been under tutelage has become fit to govern itself without the advice and assistance of a Mandatory is a question of fact and not one of principle. It can only be settled by careful observation of the political, social, and economic development of each territory. This observation must be continued over a sufficient period for the conclusion to be drawn that the public intelligence has so far progressed as to enable the machinery of a modern State to operate and political liberties to be exercised in the normal way. "

" There are, however, certain conditions the existence of which will in any case demonstrate that a political community is fit to stand alone and provide for its own existence as an independent State.

" The Commission suggests that the general conditions of this kind to be fulfilled before a mandated territory is permitted to advance its qualifications for recognition as an independent State should be the following: "

were adopted with certain amendments and subject to other modifications which might be considered necessary during the discussion.

The Commission discussed the paragraph of Chapter I which, in the draft submitted to the Commission, read as follows:

" Either by its own strength or by its alliances or by the support it may receive from without—in particular, from the former mandatory Power—the territory must be capable of upholding its independence against any encroachment from without. "

After discussion, in the course of which it was emphasised that it might perhaps be expedient to mention also the admission of the new State to the League of Nations and the support which it might derive from Article 10 of the Covenant in upholding its territorial integrity and political independence, the Commission agreed that no mention should be made in the paragraph under consideration of the various means by which the new State might safeguard its independence. The Commission simply laid down the principle that it would be for the Council to appreciate, in every case, the means at the disposal of the territory applying for emancipation.

Accordingly, *the Commission decided to adopt, for the paragraph in question, the following wording:*

" Be capable of maintaining its territorial integrity and political independence. "

The four following paragraphs in the draft were adopted with certain amendments.[2]

The CHAIRMAN put to the meeting the passage in the draft, which read as follows:

" There are several territories at present under the mandate regime whose native population presents different degrees of development, while in other territories a large European minority has grown up among a still undeveloped native population. In these territories, some sections of the population will reach political maturity sooner than others; and, where there is a European minority, that minority would already be fit for self-government. Subject to any local autonomy which the mandatory Power is always free to grant, the Permanent Mandates Commission considers that no solution is acceptable which would have the effect, in such cases, of destroying the political entity represented by a mandated territory, either by granting self-government to some sections of the population and not to others, or by releasing certain parts of the territory from the mandate regime and setting them up as independent States. "

---

[1] The text of the conclusions of the Commission in the form in which they were adopted as a result of the modifications made during the discussion is included in Annex 16 to the Minutes.

[2] These paragraphs read as follows in the draft:

" It must be able to maintain the public peace throughout the territory;

" It must have an organised administration capable of providing for the regular operation of essential Government services;

" It must be assured of controlling, directly or indirectly, adequate financial resources to provide regularly for normal Government requirements;

" It must possess a legislation and judicial organisation which will afford equal and regular justice to all."

" Accordingly, the Commission suggests that it should be laid down that the general conditions indicated above must exist throughout the territory, or among the majority of its inhabitants, before the territory can be released from the mandate regime."

M. MERLIN said it was very difficult to draft a text in the abstract which should apply to all concrete cases. In the course of its discussion of this question, the Commission had had cases under consideration which differed very much from one another, such as South West Africa and Tanganyika in which there was a considerable European minority, and Syria. In the latter case, the mandated territory included Syria and the Lebanon and other political units at very varying stages of evolution. It did not seem possible to apply the same rule in all these cases.

Lord LUGARD pointed out that the effect of the last part of the paragraph was to preclude the establishment of autonomous government in parts of Syria and the Lebanon.

M. ORTS admitted that, in drafting the text, he had not had especially in mind the case of Syria, where the territory under mandate was already split up into political units which were at different stages of evolution. His main object had been to prevent the destruction of the political entity constituted by a territory under mandate by the establishment of part of the territory as an independent State. To cover the case where certain regions included a large white population—as for example, Tanganyika—he had conceived of a system of municipal or local autonomous organisations working under the mandate regime until such time as the territory as a whole would be sufficiently developed to permit of the cessation of the mandate and the achievement by the country of independence. If this precaution were not taken, the disruption of the political entity constituted by a territory under mandate would, by the force of circumstances, certainly occur.

Lord LUGARD thought the paragraph should be amplified to cover cases like South West Africa or Tanganyika, as well as cases like Syria.

M. MERLIN thought Lord Lugard's suggestion showed the danger involved in the attempt to cover in a document conceived in general terms concrete cases which differed too widely. The best course to adopt would be, in his view, to cut out the whole paragraph.

The CHAIRMAN was in favour of M. Merlin's suggestion. Concrete cases could be considered by the Commission as occasion arose and would be treated in the light of existing circumstances.

M. RAPPARD remarked that, in any case, the first part of the paragraph should be kept in order to cover the case of territories with a large European minority capable of establishing a Government and administration complying with the five conditions laid down by the Commission. If in this case no explicit reservation was made, it would appear that the emancipation of the territory was being recommended, although that would mean putting the mass of the natives under the rule of an oligarchy of Europeans.

M. VAN REES agreed with M. Rappard. In the case put by M. Rappard, it might well happen that the five conditions were fulfilled and yet there would be no question of a population which had really attained political maturity.

Lord LUGARD agreed with M. Rappard and M. Van Rees.

M. MERLIN replied that the five general conditions laid down by the Commission could not be separated from the preceding paragraphs, and, in particular, from the paragraph as adopted which read as follows:

" Whether a people which has hitherto been under tutelage has become fit to stand alone without the advice and assistance of a mandatory is a question of fact and not of principle. It can only be sett'ed by careful observation of the political, social and economic development of each territory. This observation must be continued over a sufficient period for the conclusions to be drawn that the spirit of civic responsibility and social conditions has so far progressed as to enable the essential machinery of a modern State to operate and to ensure political liberty."

M. VAN REES suggested that M. Rappard's wishes might be met if the third paragraph of Chapter I were worded as follows:

" *Subject to the aforesaid considerations,* the Commission suggests that the general conditions . . . "

This would show that the conditions referred to were inseparable from the general observation appearing at the beginning of the chapter.

M. MERLIN entirely agreed. In any case, he insisted that, in order to avoid confusion, details should not be given in a document conceived in general terms.

M. RAPPARD agreed to the omission of the paragraph under discussion, on the clear understanding that, by the addition of the words " subject to the aforesaid considerations ", the Commission unanimously recognised that the presence in a mandated territory of a non-native minority capable of ensuring a Government in the country was not sufficient justification for the emancipation of the territory.

M. MERLIN accepted M. Rappard's interpretation of the words in question.

Count DE PENHA GARCIA was against this interpretation. He was of opinion that, where there was a strong European community capable of ensuring that government would be carried on

under satisfactory conditions—as was the case in a certain dominion—there was no reason to refuse to emancipate the territory in spite of the existence of a native majority.

M. RUPPEL wished also to reserve his opinion.

The Commission decided to omit the above-mentioned passage (see page 177) *worded:* " There are several territories . . . from the mandate regime ".

TWENTY-SEVENTH MEETING

Held on Friday, June 26th, 1931, at 10.30 a.m.

Procedure to be followed in the Matter of Petitions concerning the Mandated Territories.

STATEMENT BY THE DIRECTOR OF THE MANDATES SECTION.

M. CATASTINI reminded the Commission that, in accordance with the rules obtaining in the matter of petitions concerning mandated territories, the Chairman was not authorised to make any omissions in petitions transmitted by him for observations to the Mandatory Powers other than passages containing " violent or objectionable statements ". The services of the Secretariat dealing with the publication of League documents had recently drawn M. Catastini's attention to the fact that petitions distributed to the members of the Commission and forwarded to the mandatory Powers frequently contained passages alien to the object of such petitions properly speaking. In some cases, for example, the petitioners described how they spent their time without omitting a single detail. He had not failed to recall the rule to which he had just referred, and he had been asked to enquire of the Commission whether it could see its way to recommend the Council to amend the rules in the sense suggested. If the Commission were in favour of doing so, it should define with the utmost clearness in its proposal to the Council the rules to be followed for the editing of the text of petitions. He desired to add that, in bringing the matter before the Commission, he was acting in accordance with the express request of the Deputy Secretary-General, who was charged to supervise the publication of League documents.

After discussion, *the Commission decided that action in respect of the suggestion referred to it by M. Catastini would encounter insurmountable difficulties under present circumstances, and that it did not accordingly see its way to take any steps in the matter.*

General Conditions which must be fulfilled before the Mandate Regime can be brought to an End in respect of a Country placed under that Regime (continuation).

CHAPTER I *(continuation).*

Mlle. DANNEVIG, referring to the conditions which must exist in a territory before it is released from the mandate, considered that a modern State should not only ensure the maintenance of peace and order by means of armed forces and police, but should also take positive steps to promote the development of its inhabitants by means of education. The State should also create in its territory general health conditions which would enable the population to avoid disease and to keep in good health. She therefore proposed to add a paragraph to the following effect:

> " It should possess an educational and health organisation which, while possibly not having reached full development, demonstrates the intention of the new State to take an interest in the mental, moral and physical health of its inhabitants. "

The CHAIRMAN pointed out that the provisions as adopted of paragraph (*a*) of Chapter I covered the points mentioned by Mlle. Dannevig.

Mlle. DANNEVIG asked that her suggestion should in any case be recorded in the Minutes.

M. ORTS recalled the exchange of views which had taken place at the previous meeting on the passage of his draft relating to the different degrees of evolution which the various elements of the population of a mandated territory might have reached. There were territories in which a possible considerable minority which felt capable of governing itself might aspire to do so. In a country where the bulk of the population was undeveloped, there was a risk that a situation might be created in which political power and economic influence would be in the hands of an oligarchy which, possibly with an egoistic object, would govern by making use of the bulk of the population which was incapable of defending its own rights. In a document explaining to the

Council under what conditions a mandate would be terminated, the Commission must indicate the difficulty which was likely to arise from this fact in several territories in which these conditions already existed or would develop in the future. These minorities should not be encouraged to hope that they would attain their object—that was to say, to govern while the bulk of the population was still unfit to participate in the Government. Lastly, the Governments subject to such solicitations by this minority should be given an argument to oppose them. M. Orts considered that the anxiety reflected in his text was of sufficient importance for the Commission to bring it to the notice of the Council. It could, however, adopt a shorter formula, since the Minutes would provide the means for interpreting the idea of the Commission. He proposed to modify the text as follows:

> " The general conditions indicated above must refer to the entire territory and its population before that territory can be released from the mandate regime.
>
> " Nevertheless, certain parts of a mandated territory already constituted under this regime into distinct political and administrative organisations might be called on to administer themselves when they are recognised as capable of so doing before other less organised or developed parts of the same territory. "

Lord LUGARD proposed to convey the same idea by wording the paragraph of the Preamble regarding the " state of affairs " which must exist in the territory as follows:

> " The existence in the territory of conditions from which it may be concluded that the inhabitants, whose well-being was entrusted to the mandatory Power under Article 22 on the ground that they were ' not able to stand by themselves under the strenuous conditions of the modern world ', are now able to do so."

Lord Lugard explained that, as this provision applied to the bulk of the population of the territory, it would meet M. Orts' apprehensions. He understood that the majority of the Permanent Mandates Commission had expressed opposition to emancipating any section of the population from the mandate, though they might be given a measure of local self-government over their own community.

M. VAN REES did not agree that the paragraph to which Lord Lugard had referred should be amended, as it was particularly short and clear. He thought it better to retain the first sentence of M. Orts' amendment and to insert it at the beginning of the enumeration appearing in the first chapter. He proposed the following text:

> " The Commission suggests that the general conditions of this kind which must be fulfilled before a mandated territory is permitted to advance its qualifications for recognition as independent, *and which must refer to the entire territory and population before that territory is released from the mandate regime*, should be as follows: "

M. RUPPEL, who at the previous meeting had reserved his opinion, was inclined to accept the amendment proposed by M. Orts and M. Van Rees. He wondered, however, what interpretation should be put on the words " the entire population of the territory " in certain cases—for instance, in South West Africa. In order to declare this territory independent, would it be necessary to wait until the last native was capable of governing himself ?

M. ORTS explained that it was a question of fact and of degree. In order to emancipate a population it was clearly impossible to wait until all the individuals constituting the population were capable, for instance, of accomplishing their electoral duties with full knowledge of the facts. It was desired to prevent a minority from governing at its own free will and from forming an oligarchy concentrating economic and political influence in its own hands to the detriment of the mass of the population.

M. RUPPEL thought it could be concluded that that did not prevent South West Africa, for instance, from becoming emancipated before the Europeans formed a majority in the country. If this interpretation were recorded in the Minutes, he accepted the amendment.

M. MERLIN pointed out that the adoption of this amendment involved the omission of the second sentence of the new text which M. Orts had read. Under these circumstances he wished to state that the provision just suggested could not in certain cases and in certain territories prevent certain parts of a country which had already formed distinct political and administrative organisations under the mandate regime from being called on to govern themselves, when recognised to be capable of so doing, before other less organised or developed parts of the same territory.

The amended text proposed by M. Van Rees was adopted subject to any possible drafting amendments.

CHAPTER II.

In accordance with a suggestion by M. MERLIN, who wished to emphasise the solemn nature of the engagements to be taken by the new State, *the Commission decided that the first paragraph, which was worded as follows:*

> " The Permanent Mandates Commission suggests that the guarantees to be furnished by the new State before the mandate can be brought to an end should take the form of

a declaration binding the new State in relation to the League of Nations, or of any other instrument, treaty or convention accepted by the Council of the League of Nations as equivalent to such an undertaking ",

should be amended to read as follows:

" The Permanent Mandates Commission suggests that the guarantees . . . should take the form of a declaration binding the new State to the League of Nations or of a treaty or a convention or of some instrument formally accepted by the Council . . . "

Lord LUGARD proposed to replace the second paragraph of Chapter II of the draft submitted to the Commission, which was worded as follows:

" The Commission suggests that, without prejudice to any supplementary guarantees which might be justified by the special position of certain territories or their recent history, the new State should ensure and guarantee."

by the following phrase:

" This declaration should comprise the following points:"

M. MERLIN explained that this wording would weaken the scope of the paragraph, since the text, " The Commission suggests that . . . the new State should ensure and guarantee " gave a *de facto* certainty which would not be furnished by a mere declaration on the part of the new State.

M. ORTS suggested the wording:

" The Commission suggests that . . . the undertakings of the new State should ensure and guarantee . . . "

This amendement was adopted.

Sub-Paragraph (a)*: Protection of Minorities.*

Count DE PENHA GARCIA considered that existing declarations in respect of the protection of minorities were far from meeting with general approval and he suggested omitting in the following text submitted to the Commission:

" The protection of racial, linguistic and religious minorities in accordance with existing treaties or declarations on that subject; "

the words " in accordance with existing treaties or declarations on that subject " in order not to restrict in any way the action of the Council.

The CHAIRMAN proposed the wording " the *effective* protection ".

Sub-Paragraph (a) *as amended by Count de Penha Garcia and the Chairman was adopted.*

Sub-paragraph (b): *Privileges and Immunities of Foreigners in the Near-Eastern Territories.*

Sub-paragraph (b) *was adopted without observations.*

Sub-paragraph (c)*: Interests of Foreigners in Judicial cases not guaranteed by the Capitulations.*

M. VAN REES understood that, according to M. Orts, who proposed the following text:

" The interests of foreigners in judicial, civil and criminal cases (in other than Near-Eastern territories);"

the interests of foreigners in the Near East would be sufficiently guaranteed by the capitulations. There were, however, States which had not concluded capitulation treaties and which, nevertheless, might have nationals in the country in question. He proposed the wording:

" . . . in sofar as these interests are not guaranteed by the capitulations referred, to above."

This amendment was adopted.

At M. CATASTINI'S suggestion, *the Commission decided to insert the paragraph under discussion after paragraph* (b).

M. RUPPEL wondered if there was not a certain contradiction between the paragraph under discussion and the last paragraph of the previous chapter, under which the State in question must " possess laws and a judicial organisation which will afford equal and regular justice to all ".

The CHAIRMAN explained that the above-mentioned provision, to which M. Ruppel referred, laid down one of the conditions which should make it possible for a mandate to be terminated; it referred to the past, whereas the subject under discussion referred to the future.

M. RUPPEL replied that the ordinary justice of the country might offer all guarantees so that it would not be necessary to provide for special guarantees for the future, but he did not insist on his observation.

Sub-paragraph (c) *as amended was adopted.*

Sub-paragraph (d): *Freedom of Conscience.*

M. VAN REES proposed to add to the following text of the draft:

" Freedom of conscience and public worship and the free exercise of the religious, educational and medical activities of missions of all denominations;"

the words:

" subject to such measures as are indispensable for the maintenance of public order and morality, and good government."

This text was a combination of those occurring in the mandate for Syria and the Lebanon (Article 10) the B mandate (articles 7 or 8 as the case might be) and the C mandate (article 5).

Count DE PENHA GARCIA said he had proposed to make the same suggestion.

M. ORTS pointed out that it was assumed that the mandate had come to an end.

The CHAIRMAN and M. RUPPEL thought it unnecessary to add the words suggested by M. Van Rees, as they would tend to reduce the scope of the paragraph under discussion.

Count DE PENHA GARCIA explained that it was not in accordance with legal principles to impose on the new State provisions relating to educational and medical assistance. Such provisions might be useful or necessary in special cases—for instance, in the Near East—but it would be going too far to make them a generale rule.

Mlle. DANNEVIG wondered whether the provision in question should not be included in the paragraph dealing with the protection of minorities. Like Count de Penha Garcia, she thought that it would be going too far to impose such a provision on the new State, which should be in a position to exercise control in matters of education and medical assistance.

Count DE PENHA GARCIA pointed out that the corresponding provisions of the Treaty of St. Germain contemplated two elements—public order and certain rights of the State to issue regulations. It was fortunate that, in certain territories, the missions displayed activity in educational and medical matters, but the Government should be in a position to exercise control over these two activities.

M. ORTS considered that the adoption of the addition proposed by M. Van Rees would give satisfaction to the observations of Count de Penha Garcia and Mlle. Dannevig, which were fully justified. The words, " subject to such measures as are indispensable for the maintenance of . . . good government ", would allow of control by the State. They also authorised it to take such measures as might be necessary in the public interest—for example, in the case of an epidemic, combined action on the part of the medical profession.

Mlle. DANNEVIG thought that the use of an expression such as " subject to the *maintenance of morality* " might give rise to a misunderstanding as regards the activity of the missions.

M. VAN REES replied that this expression was used in the text of the mandates.

M. MERLIN added that it had not a depreciatory sense.

Lord LUGARD asked whether it was prudent to speak of public morals. For instance, if, in a well-organised Mussulman State such as Iraq, there was a sect like the Bahais preaching a certain doctrine, could the State declare that this doctrine was contrary to morality ?

M. VAN REES pointed out that the question referred to the educational activity of the religious missions. The Bahais formed a minority who would be protected under Sub-paragraph (*a*).

M. MERLIN thought that M. Van Rees' reservation should be applied to the activities of religious missions with regard to which the Commission had occasionally been obliged to intervene. On the other hand, it should be borne in mind that, throughout the Near East, Christian missions were engaged in activities of primary importance from the point of view of civilisation. It should be possible for these activities to be continued in a State released from the mandate. Provisions to this effect existed in the Berlin and Brussels Acts, in the Treaty of St. Germain and in the text of the mandates. If there were no guarantees in this respect, there would be a danger of all the mission work being undone.

After discussion, *the addition suggested by M. Van Rees was adopted.*

Sub-paragraph (d) *as amended was adopted.*

Sub-paragraph (e): *Financial Obligations.*

M. ORTS asked whether it was necessary to add to the following text which had been submitted to the Commission:

" The financial obligations regularly assumed by the former mandatory Power;"

the words, " on behalf of the territory ". It had seemed to him that this was self-evident.

M. VAN REES thought the words unnecessary.

M. CATASTINI suggested referring to the Council resolution of September 15th, 1925.

M. MERLIN thought no text should be mentioned in order that the paragraph might keep its general character.

Sub-Paragraph (e) *was adopted without amendment.*

Sub-paragraph (f): *Rights legally acquired.*

After discussion, *the Commission decided to replace the following text:*

"Titles to land and other rights acquired under the administration of that Power;"

by the words:

"Rights of every kind legally acquired under the mandate regime."

Most-favoured-nation Treatment.

M. ORTS explained with regard to the following text submitted to the Commission:

"Most-favoured-nation treatment for all members of the League of Nations, subject to reciprocity and during a period to be agreed upon, which shall not be less than twenty-five years;"

that this treatment was a substitute in return for the abandonment of economic equality. He had put aside the idea of requiring a new State to maintain the principle of economic equality, as that would preclude all possibility of its negotiating commercial treaties on advantageous terms. On the other hand, this principle, as M. Van Rees had said, should be regarded as an ideal to be pursued in the interests of peace.

The granting of most-favoured-nation treatment was not in any way an excessive demand to make of the new State, and would not, owing to the conditions which would accompany it—reciprocity and a limited period—be prejudicial to the State nor restrict its liberty.

Count DE PENHA GARCIA had reached the same conclusions as M. Orts, though on different grounds. As had rightly been shown, economic equality in the mandated territories was a temporary arrangement which was intended to terminate with the mandate. In the system which he had set forth in his report (Annex 3 (*c*)) Count de Penha Garcia had attributed great importance to the maintenance of peace. The same consideration determined his view that the new State, at all events during the first few years of its independence, should not be allowed to become involved in economic disputes. This would meet the Council's preoccupations. The period during which the new State was to accord most-favoured-nation treatment would enable it to establish and regulate its economic situation. The period might be fixed at not less than fifteen years and not more than twenty-five years.

Lord LUGARD was in favour of deleting this sub-paragraph. He considered that such an undertaking, if required, should be a condition for the admission of a State as a Member of the League of Nations, but not for the termination of the mandate. A State could not be called really independent if it were bound in advance by such a clause.

M. ORTS agreed that, if economic equality were required of a State, it would be deprived of the means to negotiate commercial treaties. It was this consideration which had led him to relinquish the idea of making the maintenance of economic equality compulsory. When, however, a country desired the termination of the mandate, an act which would result in suddenly depriving the other Powers of the benefits they had obtained from economic equality, it was only right that, during a certain time, the new State should provide some substitute, inadequate but by no means negligible, in the form of most-favoured-nation treatment.

Lord LUGARD fully appreciated the point of the argument, but maintained that a State on which such a condition was imposed could not be called independent. The case was different if the State voluntarily agreed as a condition of membership of the League.

The CHAIRMAN explained that the point was to place all the other countries Members of the League on the same footing as the ex-mandatory Power. The provision in question therefore met a preoccupation of general interest.

M. VAN REES thought that the condition laid down in this sub-paragraph was definitely egoistic in character, in that it was designed to retain for States Members of the League of Nations material advantages, whereas the other guarantees required of the new State related to humanitarian and moral questions. The mere fact that throughout the period of the mandate States Members of the League of Nations had enjoyed economic equality could not be put forward as a reason for imposing on the new independent State after the termination of the mandate a condition which would seriously infringe its sovereign rights. He did not see, as he had explained in his note,[1] on what grounds such a condition could be defended. Every country knew in advance that the mandate would be temporary. By what right could they claim to revive in part a provision which should properly terminate with the mandate? It would appear as if States Members of the League were endeavouring, even while granting reciprocity, to wrest a material advantage from the new State which they had just emancipated, and it would be a very difficult matter to

[1] See Annex 3 (*a*).

defend such a claim in the face of the inevitable criticism it would arouse. It must not be forgotten that a declaration of emancipation in the case of a territory which had become able to stand alone was not in the nature of a gift to that territory. It was clear from the very terms of Article 22 of the Covenant that, if the competent authority affirmed that the territory was able to stand alone, it had the right to claim its independence.

Lord LUGARD thought that, from whatever standpoint the Commission examined it, the question of granting most-favoured-nation treatment could not be dealt with on the same footing as the other conditions, which were of an entirely different character. His view was that the clause should be entirely omitted, but at the end of the report a note might be added to the following effect:

> " In addition to the above-mentioned obligatory clauses, the Mandates Commission is of opinion that it might perhaps be desirable to ask the new State to grant most-favoured-nation treatment to all Members of the League of Nations, subject to reciprocity for a term of years. "

M. VAN REES maintained that the existence in the text of the mandates of the principle of economic equality did not create for anyone a permanent right which would continue after the termination of the mandate. There could thus be no question of the States Members of the League having a right to any compensation.

The CHAIRMAN repeated that the point was for other States Members of the League to obtain a guarantee *vis-à-vis* the mandatory Power, which, when proposing the emancipation of the territory, could obtain, by various means, the advantages granted to it under the mandate.

Count DE PENHA GARCIA, returning to an expression of M. Van Rees, said that it was precisely with the idea of insuring, if necessary, against the egoism of the mandatory Power that it was suggested that the new State should grant most-favoured-nation treatment to all Members of the League of Nations for a limited period. The new State, moreover, would be spared the risks to which it would be exposed if it engaged in tariff warfare. He stressed the importance—universally recognised—of the most-favoured-nation clause, which made it possible to avoid a state of economic warfare. He did not see how, by requiring the new State to agree to that clause—which had formed the subject of such exhaustive study by the League Economic Organisation—a servitude would be imposed on it. It might be maintained, on the contrary, that it was for the League, when it declared the new State independent, to ensure for it the best conditions for its economic policy, which would assure to it the goodwill of the other States.

M. RUPPEL observed that the sub-paragraph in question in M. Orts' draft report provided, among the guarantees to be required from the new State, for the granting of most-favoured-nation treatment to all Members of the League of Nations, subject to certain conditions, and that that would apply to the emancipation of any territory under mandate. He felt, however, that such a guarantee could hardly be required of all mandated countries, since the principle of economic equality did not apply to C mandates. Obviously, a new State formerly under a C mandate could not be required to submit to a servitude of that kind, which had not existed under the mandatory regime. As regards B mandates, no one could foresee what the circumstances would be when the question of independence arose. It might happen that an international regime, such as was found at present in certain parts of Africa under the General Act of the Congo Basin, would be in force at the time. In that case, a special guarantee, such as was contemplated in M. Orts' proposal, would be superfluous. There were other possibilities which would make such an undertaking on the part of the new State unnecessary. Again, as regards A mandates, it was impossible to tell in every case what the situation would be. He was thinking, for example, of Palestine.

He felt it impossible, in view of these various considerations, to maintain the sub-paragraph as it stood. He agreed, nevertheless, that it might be considered whether in any particular case it would not be equitable to establish a transitory regime similar to the regime contemplated in the draft report, but that would be an exceptional situation. In such a case recourse might be had to the reservation embodied in the second paragraph of Chapter II as adopted.

M. MERLIN agreed with Lord Lugard's suggestion that the provision embodied in the sub-paragraph under discussion, which was essentially different from the other conditions, should be put at the end. He proposed the following wording:

> " Apart from the essential undertakings defined above, the Commission considers it desirable that the new State should, as a transitory measure, accord to States Members of the League of Nations which will no longer enjoy the benefits of the clause relating to economic equality most-favoured-nation treatment, subject to reciprocity for a period to be agreed upon. "

It was certain that, at the time when the mandate had been established, the principle of economic equality had been imposed in the general interests of peace, but also because all the nations watching jealously over those new territories were anxious to have a share in their activities. The mandate was obviously a temporary regime, but no one could foresee how long that regime would last. As the territories under mandate attained a sufficient degree of maturity, they could claim emancipation; but they could not forget their past, and States which had shown some solicitude on their behalf had a right to demand that their interests should not be neglected, so far as those interests might be involved in the question of emancipation. If they renounced economic equality, they were entitled to demand some transitional measure which would also give the new State time to conclude economic agreements satisfactory to everyone. That was not a

moral consideration, but he thought that it was a sound one. The essential condition of reciprocity was laid down, so that there was no question of imposing a servitude on the new State, which retained absolute liberty of discussion as regards commercial treaties. Thus, although at first sight the suggested provision might appear exorbitant in common law, it was not so in view of the circumstances which would still exist after the termination of the mandate.

M. VAN REES said that, in his view, the essential point was that the provision in question should not be laid down as an obligation to be imposed on the new State. If Lord Lugard's or M. Merlin's formula were adopted, there would no longer be any question of an obligation, but of a measure to be negotiated with the new State. In that case, his objection no longer had the same importance.

M. RUPPEL was prepared to support M. Merlin's proposal, but suggested that it might be possible to provide for an exception in the case of C mandates.

M. VAN REES endorsed that observation; he had, moreover, already referred in his note (Annex 3 (*a*)) to the fact that it would be inadmissible to treat the territories under C mandate on the same footing as the others, seeing that the principle of economic equality did not apply to the former even at the present time.

M. MERLIN thought that his text would satisfy M. Ruppel. It read:

> " . . . to States Members of the League of Nations—which will no longer enjoy the benefits of the clause relating to economic equality . . . "

If that clause did not appear in the mandate, the provision would not, of course, apply.

M. RUPPEL said that, if that explanation could be recorded in the Minutes, he would support M. Merlin's formula.

The text proposed by M. Merlin was adopted, subject to any possible drafting amendments.

TWENTY-EIGHTH MEETING

Held on Friday, June 26th, 1931, at 4 p.m.

General Conditions which must be fulfilled before the Mandate Regime can be brought to an End in respect of a Country placed under that Regime (continuation).

CHAPTER II *(continuation)*.

Public Order.

The CHAIRMAN put to the meeting the following sub-paragraph of Chapter II of the draft submitted to the Commission:

> " The continued observance of the provisions peculiar to certain mandates which relate to public order (*e.g.*, those of Articles 13 and 14 of the Palestine Mandate)."

After a discussion, during which the Commission came to the conclusion that it was impossible, in a general provision applicable to all mandates, to mention a case which applied only to one mandate, that of Palestine, *it was decided to delete the sub-paragraph in question and to add in the second paragraph of Chapter II, after the words:* " without prejudice to any supplementary guarantees which might be justified by the special position of certain territories ", *a note to the effect that, for the determination of the mandate over Palestine, it would be necessary to require that Articles 13 and 14 of the Mandate should be duly taken into account.*

Sub-paragraph (g)*: International Conventions.*

The Chairman then submitted to the meeting the following sub-paragraph of the draft:

> " (*i*) The maintenance in force for their specified duration of the international conventions, both general and special, to which, during the mandate, the mandatory Power acceded on behalf of the mandated territory."

Count DE PENHA GARCIA thought that the provision in question should be supplemented by a clause providing that the new State should also accede to the other general international conventions concluded under the League's auspices. To follow the choice made by the mandatory Power among all those conventions would, in fact, result in inequality between the different mandated territories—since, in the case of one territory, for example, five conventions might have to be kept in force, whereas in the case of another there might be nine or ten, according to the number of conventions to which the mandatory Power had adhered on behalf of the respective territories.

M. MERLIN pointed out that it was impossible to lay down such a condition for the new State, as there were many conventions which did not concern it and to which it could not therefore be asked to accede.

M. ORTS explained that he did not wish to impose special servitudes on the new State when the latter was declared independent. The new State would possess sovereign rights, but it was necessary at the same time to safeguard undertakings regularly concluded by the mandatory Power on its behalf while it was under the tutelage of that Power. He drew a parallel between civil and international law, and quoted, by way of example, the validity of leases signed by a guardian on behalf of his ward, the ward being required, when emancipated, to respect the terms of those leases.

Count DE PENHA GARCIA still thought that accession to the general conventions concluded under the auspices of the League of Nations was a condition to be imposed at the time of the cessation of the mandate, seeing that the Commission had to deal with this problem without having to consider the admission of the new State to the League of Nations. The analogy of the regime of mandates with authority granted under civil law argued by M. Orts was very doubtful.

M. VAN REES pointed out that the condition suggested by Count de Penha Garcia for the termination of the mandate was among those imposed on States Members of the League, under the Preamble to the Covenant. If, then, his suggestion were adopted, there would be no distinction on that point, between the termination of the mandate and entry into the League of Nations, though the latter was really a second stage.

Count DE PENHA GARCIA said that he would not insist on the point provided that his observations were recorded in the Minutes.

M. RUPPEL pointed out that, in the case of special conventions, the new State was not the only party concerned as regards the maintenance in force of those instruments. They had been concluded with third Powers. The third Power could not be obliged to agree to the substitution, as a contracting party, of the new State for the mandatory Power. He proposed accordingly to add:

" if the third Power concerned gives its consent ".

Count DE PENHA GARCIA agreed with M. Ruppel that the substitution of the new State for the mandatory Power which had signed the special convention undoubtedly constituted a *de facto* change in the conditions of the treaty. The latter had been concluded with the mandated territory through the mandatory Power, but subject to the guarantee of the latter. After the termination of the mandate, the conditions would no longer be the same, and the third Power concerned had the right, therefore, to denounce the convention.

M. ORTS replied that, when a special convention was concluded between a mandated territory and a third Power, the mandatory Power only appeared as an intermediary, acting on behalf of one who had not the capacity to act alone, so that, from a legal standpoint, there were only two parties—namely, the territory under mandate and the third Power. When a person was authorised to negotiate on behalf of a minor, agreements concluded by that person were binding both on the other party and on the minor. In M. Orts' view, even after the termination of the mandate and the disappearance of the mandatory Power, the legal bond between the mandated territory and the other contracting party remained intact.

M. RUPPEL did not share M. Orts' opinion on that very delicate question of international law. He did not propose, however, to press the point, and simply noted that his own view also appeared to be accepted by the British Government, since Article 8 of the Treaty of Alliance concluded between the United Kingdom and Iraq, dated June 30th, 1930, provided, in paragraph 2, as follows:

> " It is also recognised that all responsibilities devolving upon His Britannic Majesty in respect of Iraq under any other international instrument . . . should similarly devolve upon His Majesty the King of Iraq alone, and the High Contracting Parties shall immediately take such steps as may be necessary to secure the transference to His Majesty the King of Iraq of these responsibilities. "

Lord LUGARD stressed the point that the sub-paragraph under discussion read, "the maintenance in force for their specified duration . . . " He observed that many general conventions were concluded for an indefinite period, with the right of denunciation. Did the Commission intend to impose on the new State an obligation to respect those conventions indefinitely without at the same time according to it the right of denunciation previously enjoyed by the mandatory Power ? He thought it would be impossible to impose such an obligation.

M. ORTS observed that, in the case of conventions without any time-limit, the right of denunciation belonged to the parties. Such a convention only bound the emancipated State to the extent that it bound the State which had concluded it in its name—that was to say, subject to the reservation that the convention could be denounced. In order to take into account Lord Lugard's observations, M. Orts proposed to insert in the text after the words, " for their specified duration, " the words, " and subject to the right of denunciation accorded to the parties ".

Lord LUGARD said that that would satisfy him.

M. Orts' proposal was adopted.

Sub-Paragraph (g), as amended, was adopted.

The conclusions on the general conditions to be fulfilled before the mandate regime can be brought to an end in respect of a country placed under that regime were adopted in their entirety.

The CHAIRMAN thanked M. Orts for the report which he had been good enough to draw up and in framing which he had been able to consult the preliminary reports of Count de Penha Garcia, M. Van Rees and Lord Lugard.

Iraq: Petitions dated September 23rd, 1930, and December 9th, 1930, from Mr. A. H. Rassam and Observations by the British Government, dated May 6th, 1931: Report by M. Orts (Annex 8).

M. ORTS, speaking as Rapporteur, pointed out that he had reproduced in his report the chief complaints set forth in the petitions. This would avoid annexing unduly voluminous documents to the Minutes.

He added that his conclusions should be supplemented by a third paragraph, reproducing the terms employed by M. Rappard in his report on the Kursich petition. The Commission would make it clear in that way that the complaints of all the minorities had led it to form the same conclusion.

The conclusions of M. Orts' report, thus amended, were adopted.

Iraq: Petition, dated April 20th, 1931, from Yusuf Malek, and Observations by the British Government, dated June 2nd, 1931: Report by M. Orts (Annex 9).

The conclusions of Orts' report were adopted with some drafting amendments.

Iraq: Petition of the British Oil Development Company, Ltd., Conclusions to be drawn from the British Government's Communication dated June 4th, 1931 (Annex 5 (*a*)): **Report by M. Rappard** (Annex 5 (*b*)).

The conclusions of M. Rappard's report were adopted.

Syria and the Lebanon: Petition, dated June 9th, 1930, signed by Three Inhabitants of Aleppo, and Petition, dated June 16th, 1930, from 184 Inhabitants of Damascus: Report by M. Sakenobe (Annex 13).

The conclusions of M. Sakenobe's report were adopted with some drafting amendments.

Syria and the Lebanon: Petition, dated May 7th, 1929, from Ahmed Mouktar el Kabbani and twenty Other Signatories: Report by M. Sakenobe (Annex 14).

The conclusions of M. Sakenobe's report were adopted with some drafting amendments.

Appointment of Rapporteurs for Various Petitions received by the Commission during its Present Session.

The CHAIRMAN announced that, since the opening of the session, the Commission had received from the mandatory Power three petitions from the Cameroons under French mandate. Two of those petitions, which the French Government had forwarded under cover of the same letter, were from several Douala chiefs and from a certain Manga Bell, respectively (document C.P.M. 1186).

He proposed that M. Rappard, who, during the sixteenth session, had examined a petition dealing with the same question, should be asked to report on these new petitions.

The third petition, forwarded by the French Government on June 4th, 1931, was from the European delegate of the Cameroons negro citizens (document C.P.M.1185).

The Chairman proposed that Count de Penha Garcia should be asked to submit a report on this petition at the next session

These proposals were adopted.

Western Samoa: (a) **Petition, dated May 19th, 1930, from Mr. O. F. Nelson (Auckland, New Zealand), and Observations by the New Zealand Government, dated December 5th, 1930.**

(b) **Petition, dated May 19th, 1930, from Mr. A. John Greenwood (Auckland, New Zealand), and Observations by the New Zealand Government, dated December 5th, 1930.**

(c) **Petition, dated September 18th, 1930, from the Women's International League for Peace and Freedom (New Zealand Section), and Observations thereon by the New Zealand Government, dated January 28th, 1931.**

At the request of M. VAN REES, the examination of the above petitions were adjourned to the next session, when the accredited representative would be present, since Lord Lugard, rapporteur, proposed to ask certain questions.

Liquor Traffic: Revised Memorandum: Definition of the Zones of Prohibition in African Territories under Mandate *(continuation)*: **Adjournment of the Question.**

Count DE PENHA GARCIA recalled that he had been requested at the nineteenth session [1] to submit a report on this subject at the present session, after receiving suggestions from Lord Lugard.

Lord LUGARD replied that he must first obtain certain data and that he had not yet been able to do so. He would forward his suggestions to Count de Penha Garcia as soon as possible.

The Commission decided to adjourn the question to its next session.

Economic Equality: Purchase of Material and Supplies by the Public Authorities of Territories under A and B Mandates, either for their own Use or for Public Works *(continuation)*: **Adjournment of the Question.**

After an exchange of views, *the Commission decided to adjourn this question until the next session.*

List of General and Special International Conventions applied in the Mandated Territories *(continuation).*

M. ORTS observed that when, during its twenty-second meeting, the Commission had adopted his report on international conventions applied to the mandated territories, M. Ruppel had pointed out certain omissions in the synoptic tables prepared by the Secretariat.

M. Ruppel's remark appeared to have been due to a misunderstanding, as it had been based on a reference to the " Tables, Diagrams and Graphs showing the State of Signatures, Ratifications and Accessions in Agreements and Conventions concluded under the Auspices of the League of Nations up to September 1st, 1930 " (document A.20.1930.V). The two lists, however, were different in character. The list published under document A.20.1930.V was a list of agreements and conventions concluded under the auspices of the League; accordingly, all the Conventions concluded under the League's auspices were mentioned in that list, irrespective of their actual entry into force or application. For example, the Protocol of 1924, which had never come into force, was included.

The " Tables of international conventions applied to the mandated territories " were quite different. They included only those conventions which were *applied* to the mandated territories. That procedure had been adopted in order to comply strictly with the Council's resolutions, which had always referred to Conventions *applied* and not to Conventions *applicable* to the mandated territories; *vide*, in particular, the Council's report adopted on March 5th, 1928, as follows:

> " . . . It (the Commission) now wishes for certain additional figures concerning the *financial situation* of these territories, and it asks for the assistance of the mandatory Powers in verifying *certain lists of international conventions* applied in the mandated territories which it has already drawn up in tentative form . . . "

Those observations applied also to the Labour Conventions mentioned by M. Ruppel.

M. Ruppel had forwarded to the Secretariat a series of what he thought were omissions in the " Tables of international conventions applied in the mandated territories. " Those tables had only been submitted to the Commission in proof form, and the Secretariat would take care to check the points noted by M. Ruppel—so far as they were not already covered by M. Orts' explanations—before the final text was printed.

M. RUPPEL thanked M. Orts for his explanations.

---

[1] See the Minutes of the nineteenth session of the Commission, page 70.

TWENTY-NINTH MEETING

Held on Saturday, June 27th, 1931, at 10.30 a.m.

General Conditions which must be fulfilled before the Mandate Regime can be brought to an End in respect of a Country placed under that Regime (continuation).

M. ORTS pointed out that, in addition to certain purely formal corrections which he had made in the final text of the Commission's conclusions, he felt it necessary to suggest a slight amendment in the drafting of the last paragraph, as follows, in the text submitted to the Commission:

> " In addition to the foregoing essential clauses, the Permanent Mandates Commission considers that it would be desirable that the new State should, as a transitional measure, secure to States Members of the League of Nations—in view of the lapse of the Economic Equality Clause—most-favoured-nation treatment, subject to reciprocity for a period to be agreed upon."

In order to dispel all idea of any kind of bargain between Members of the League of Nations and the new State, he proposed that the text should be amended as follows:

> ". . . considers that it would be desirable that the new State, if hitherto subject to the Economic Equality Clause, should consent to secure to all States Members of the League of Nations the most-favoured-nation treatment as a transitory measure on condition of reciprocity. "

M. VAN REES did not remember that the Commission had actually accepted the formula suggested by M. Merlin. He would prefer Lord Lugard's formula, stating that the Commission was of opinion " that it might perhaps be expedient to ask the new State to grant . . ." The Commission would, in his view, be making too positive a statement if it declared that it was desirable that the new State should grant most-favoured-nation treatment.

The CHAIRMAN preferred a much more positive formula, which should be included among the essential undertakings. He had supported M. Merlin's text only in a spirit of conciliation. He reminded M. Van Rees that it was simply a recommendation.

M. MERLIN added that the recommendation would be submitted to the Council, which would take a final decision. The Commission was merely directing its attention to the interest of the question.

M. VAN REES thought that it would be for the Council to decide on the conditions to be required of the new State to be declared independent, and that the Commission was not called upon to give an affirmative reply on the point in question. He, personally, saw no serious objection to putting the question to the new State, provided that the latter was free to reply as it thought fit. If the Commission decided to adopt the formula in the draft conclusions, he asked that it might be stated in the Minutes that he had not been in favour of obliging the new State, in any manner whatsoever, to accord most-favoured-nation treatment, and that the adoption of the text by the Commission did not imply that he, personally, was of opinion that the new State should be obliged to grant such treatment.

The text proposed by M. Orts was adopted, M. Van Rees reserving his opinion on the matter.

M. ORTS informed the Commission that he had collated the French and English texts of the conclusions with Lord Lugard.

The CHAIRMAN said that this procedure must not be regarded as constituting a precedent. Hitherto, the Commission, when examining any text, had voted on the French text or the English text, as the case might be, leaving the Secretariat services to collate the two texts as might be necessary. The present case must be regarded as constituting an exception.

Lord LUGARD endorsed the Chairman's observations. He had thought that it would be useful, in the interests of greater clearness and rapidity, to collate with M. Orts the French and English texts of the conclusions which had just been adopted, but the Secretariat translation service was responsible for seeing that the final texts corresponded.

Examination of the Draft Report to the Council.

The Commission established the final text of the introduction and various passages of its report to the Council (Annex 16).

The CHAIRMAN said that he had consulted M. Van Rees on the drafting of the footnote to appear in the report after the chapter concerning the special report on Iraq (see Annex 16, D).

Adoption of the List of Annexes to the Minutes of the Session.

The Commission adopted the list of Annexes to the Minutes of the present session.

Representation of the Commission at the Next Session of the Council and of the Assembly.

After discussion, *it was agreed that, if the Chairman were unable to represent the Commission at the next session of the Council and of the Assembly, that duty should be entrusted to M. Van Rees, the Vice-Chairman, or, should he also be unable to undertake it, to M. Orts.*

Close of the Session.

The CHAIRMAN congratulated his colleagues on the particularly important work done during the session, above all, as regards the question of the termination of the mandate. In connection with the study of this question, Count de Penha Garcia, Lord Lugard, M. Orts and M. Van Rees had given assistance which merited the special thanks of the Commission.

The Chairman expressed the Commission's thanks to M. Catastini and his collaborators and to the different services of the Secretariat.

M. VAN REES wished to associate himself warmly with the thanks addressed to the Secretariat and to congratulate the Chairman, on his own behalf and on that of his colleagues, for the competence with which he had assisted the Commission in the accomplishment of its task.

ANNEX 1.

C.P.M.1173(1).

LIST OF DOCUMENTS [1] FORWARDED TO THE SECRETARIAT BY THE MANDATORY POWERS SINCE THE LAST EXAMINATION OF THE REPORTS RELATING TO THE FOLLOWING TERRITORIES:

A. *Iraq.*
B. *Palestine.*
C. *Syria and the Lebanon.*
D. *Nauru.*
E. *New Guinea.*
F. *South West Africa.*

A. Iraq.

I. *Special Report and Legislation.*

1. Special Report by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to the Council of the League of Nations on the progress of Iraq during the period 1920-1931.
2. Laws and Regulations issued between July 1st, 1930, and December 31st, 1930. [2]

II. *Various Official Publications.*

Iraq Government Gazette. [3]

III. *Various Communications.*

1. Letter from the British Government, dated January 12th, 1931, transmitting the Report of the Special Committee appointed by the Government of Iraq to examine the Claim of the Bahai Spiritual Assembly, Baghdad, and communicating the Measures taken by the Government of Iraq in Execution of the Recommendations contained in the Report (document C.P.M.1136). (See Annex 6.)
2. Letter from the British Government dated March 28th, 1931, with regard to the Signature and the bringing into Force in the Near Future of the new Judicial Agreement between the British Government and the Government of Iraq (document C.205.M.83.1931.VI).

B. Palestine.

I. *Annual Report and Legislation.*

1. Report by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to the Council of the League of Nations on the Administration of Palestine and Transjordan for the Year 1930.
2. Ordinances, Annual Volume for 1930.
3. Proclamations, Rules, Orders and Notices. Annual Volume for 1930.
4. Transjordan Legislation 1930 (English version).

I. *Various Official Publications.*

1. Report on Immigration Land Settlement and Development by Sir John Hope Simpson (document Cmd. 3686).
2. Appendix containing Maps to the Former Paper (document Cmd. 3687).
3. Statement dated October 1930 of Policy in Palestine by His Majesty's Government in the United Kingdom (document Cmd. 3692).
4. Letter, dated February 13th, 1931, addressed by the Prime Minister to Dr. Weizmann of the Jewish Agency.
5. Staff List showing Appointments and Stations on March 31st, 1930, together with a List of Corrigenda to bring the List up to date as on June 1st, 1931. [2]

---

[1] *(a)* Documents received by the Secretariat primarily for any of the technical organisations (cf. Advisory Committee on Traffic in Opium and Other Dangerous Drugs) or other Sections of the Secretariat (cf. Treaty Registration) are not included in this list. Unless otherwise indicated, the members of the Permanent Mandates Commission should have received copies of all the documents mentioned in this list.

The annual reports and copies of laws, etc., are available only in the language in which they have been published by the mandatory Powers.

The communications forwarded in reply to the observations of the Permanent Mandates Commission, and certain other documents, have been translated by the Secretariat and are available in both official languages. The titles of these documents are followed by the official number under which they have been published.

(b) The petitions forwarded by the mandatory Powers, together with their observations on these petitions and on the petitions communicated to them by the Chairman of the Permanent Mandates Commission in accordance with the rules of procedure in force, are not mentioned in the present list. These documents are enumerated in the agenda of the Commission's session.

[2] Kept in the archives of the Secretariat.

6. *Official Gazette* of the Government of Palestine. [1]
7. Report of the Commission appointed by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland, with the Approval of the Council of the League of Nations, to determine the Rights and Claims of Moslems and Jews in Connection with the Western or Wailing Wall at Jerusalem, December 1930.
8. Report of a Committee on the Economic Condition of Agriculturists in Palestine and the Fiscal Measures of Government in Relation thereto, issued by the Government of Palestine in 1930. [2]
9. Report by Mr. C. F. Strickland of the Indian Civil Service on the Possibility of introducing a System of Agricultural Co-operation in Palestine, issued by the Government of Palestine in 1930. [3]

III. *Various Communications.*

Letter from the British Government, dated August 27th, 1930, forwarding the Correspondence exchanged between the British Government and the Zionist Organisation and relating to the Enlarged Jewish Agency for Palestine, together with the Text of the Agreement signed at Zurich on August 14th, 1929 (document C.P.M.1078).

IV. *Miscellaneous Documents forwarded on June 4th, 1931.*

1. The Statistical Bases of Sir John Hope Simpson's Report on Immigration, Land Settlement and Development in Palestine. Document issued in May 1931 by the Jewish Agency for Palestine.
2. Memorandum by Mr. Leonard Stein on the Palestine White Paper of October 1930.
3. Memorandum on Land Settlement, Urban Development and Immigration in Palestine submitted to Sir John Hope Simpson by the Jewish Agency.

C. Syria and the Lebanon.

I. *Annual Report and Legislation.*

1. Report to the League of Nations on the Situation in Syria and the Lebanon (year 1930).
2. Decree No. 3045 of the High Commissioner of the French Republic in the Levant defining the Status of Soldiers of the Special Levant Troops. [1]
3. Decree No. 3390 of the High Commissioner of the French Republic, of December 31st, 1930, containing Instructions regarding the Conditions of Allocation and Employment of Officers of the Special Levant Services placed at the Disposal of the High Commissioner of the French Republic. [1]

II. *Various Official Publications.*

1. Collection of Diplomatic Documents relating to the Levant States under French Mandate, from December 23rd, 1920, to June 1st, 1930. [1]
2. Agreement between the State of Syria and the Iraq Petroleum Company, Ltd., signed at Damascus on March 25th, 1931. [1]
3. Agreement between the Lebanese Republic and the Iraq Petroleum Company, Ltd., signed at Beirut on March 25th, 1931. [1]
4. *Bulletin of the Administrative Acts of the High Commission of the French Republic.* [1]
5. *El Acima*, bi-monthly bulletin of the State of Syria. [1]
6. *Official Journal* of the Lebanese Republic. [1]
7. *Official Journal* of the State of the Alaouites. [1]
8. *Quarterly Economic Bulletin of the Territories under French Mandate* (State of Syria, Lebanese Republic, State of the Alaouites, State of the Jebel Druse). [1]

D. Nauru.

I. *Annual Report and Legislation.*

Report to the Council of the League of Nations on the Administration of Nauru during the Year 1930 (Ordinances and Regulations annexed).

II. *Various Official Publications.*

1. *Official Gazette.* [1]
2. The British Phosphate Commissioners. Report and Accounts for the Year ended June 30th, 1929. [1]

---

[1] Kept in the archives of the Secretariat.

[2] Although these reports were not forwarded direct to the Commission by the Government of the mandatory Power, it was decided in agreement with the accredited representative to consider them as as having been so transmitted (see Minutes, page 76).

[3] *Idem* (see Minutes, page 75).

E. New Guinea.

I. *Annual Report and Legislation.*

1. Report to the Council of the League of Nations on the Administration of the Territory of New Guinea from July 1st, 1929, to June 30th, 1930.
2. Laws of the Territory of New Guinea, Volume X, 1929.

II. *Various Official Publications.*

1. Anthropological Reports Nos. 4 and 5 by E. W. Pearson Chinnery, Government Anthropologist. [1]
2. *New Guinea Gazette.* [1]

F. South West Africa.

I. *Annual Report and Legislation.*

1. Report presented by the Government of the Union of South Africa to the Council of the League of Nations concerning the Administration of South West Africa for the Year 1930.
2. Laws of South West Africa 1929.
3. Laws of South West Africa 1930.

II. *Various Official Publications.*

1. Accounts of the Administration of South West Africa for the Financial Year 1929-30 together with the Report of the Comptroller and Auditor-General thereon.
2. *Official Gazette* of South West Africa. [1]

ANNEX 2.

C.P.M.1154(2).

AGENDA OF THE TWENTIETH SESSION OF THE PERMANENT MANDATES COMMISSION.

I. Opening of the Session.

II. Election of the Chairman and Vice-Chairman of the Commission for 1931-32.

III. Examination of the Annual Reports of the Mandatory Powers. [2]

Palestine, 1930.
Syria, 1930.
South West Africa, 1930.
Nauru, 1930.
New Guinea, 1929-30.

IV. Iraq: Examination of the Special Report by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to the Council of the League of Nations on the Progress of Iraq during the Period 1920-1931.

V. General Questions.

(*a*) General Conditions that must be fulfilled before the Mandate Regime can be brought to an End in respect of a Country placed under that Regime.
(Rapporteur: Count de Penha Garcia.)
(*b*) General and Special International Conventions applicable to Mandated Territories.
(Rapporteur: M. Orts.)

VI. Petitions.

1. Petitions rejected in virtue of Article 3 of the Rules of Procedure: Report by the Chairman (document C.P.M.1160(1)).

---

[1] Kept in the archives of the Secretariat.

[2] In agreement with the Chairman and the mandatory Powers concerned, the examination of the annual reports on Tanganyika, Togoland and the Cameroons under French mandate was adjourned until the autumn session, in order to lighten the agenda of the present session, on which appear several questions which entailed prolonged discussion.

2. Iraq.

(*a*) Petitions dated September 23rd and December 9th, 1930, from Captain A. Hormuzd Rassam (documents C.P.M.1108,1108(*a*) and 1156).
Observations of the British Government, dated May 6th, 1931 (document C.P.M.1156).
(Rapporteur: M. Orts.)

(*b*) Petition from M. Yusuf Malek, dated April 20th, 1931 (document C.P.M. 1179).
Observations from the British Government, dated June 2nd, 1931 (document C.P.M.1179).
(Rapporteur: M. Orts.)

(*c*) Petitions from the Kurds of Iraq forwarded on February 20th, 1931, by the British Government with its Preliminary Observations (document C.P.M.1140).
Observations from the British Government dated April 27th, 1931 (document C.P.M.1151) and dated June 8th, 1921 (document C.P.M.1184).
(Rapporteur: M. Rappard.)

(*d*) Petition from Tawfiq Wahbi Beg, dated April 19th, 1931 (documents C.P.M.1192 and 1192(*a*)).
Observations from the British Government dated June 13th, 1931 (document C.P.M.1192).
(Rapporteur: M. Rappard.)

3. Palestine.

(*a*) Memorandum from the Arab Executive Committee of December 1930 (document C.P.M.1169) on the British Government's Statement of Policy of October 1930 (Cmd. 3692).
Observations of the British Government dated May 11th, 1931 (document C.P.M.1169).
(Rapporteur: M. Palacios.)

(*b*) Memorandum by the Jewish Agency dated April 30th, 1931, on the Development of the Jewish National Home in Palestine during 1930 (document C.P.M.1178).
Observations from the British Government dated June 10th, 1931 (document C.P.M.1187).
(Rapporteur: M. Ruppel.)

4. Syria and the Lebanon.

(*a*) Petition from M. Saadeddine Jabri, M. Edmond Rabbath, and M. Nazem el Kodzi, Aleppo, dated June 9th, 1930, and Petition from 184 Inhabitants of Damascus, dated June 16th, 1930 (document C.P.M.1174).
Observations of the French Government dated June 4th, 1931 (document C.P.M.1174).
(Rapporteur: M. Sakenobe.)

(*b*) Petition from M. Ahmed Muktar el Cabbani and Twenty Other Signatories dated May 7th, 1929 (document C.P.M.1175).
Observations of the French Government dated June 4th, 1931 (document C.P.M.1175).
(Rapporteur: M. Sakenobe.)

5. Syria and Palestine.

Petition from Mrs. Evelyn Evans, dated December 12th, 1930 (document C.P.M.1141).
Observations of the British Government dated April 29th, 1931 (document C.P.M.1152).
Observations from the French Government dated June 4th, 1931 (document C.P.M.1176).
(Rapporteur: M. Ruppel.)

6. Cameroons under French Mandate.

Petition [1] dated March 21st, 1930, from M. Joseph Mouangue, and Observations from the French Government dated November 10th, 1930 (document C.P.M.1133).
(Rapporteur: M. Palacios.)

7. Tanganyika.

Petition[1] dated October 20th, 1930, from the Indian Association of the Tanganyika Territory, and Observations of the British Government dated May 15th, 1931 (document C.P.M.1164).
(Rapporteur: M. Palacios.)

---

[1] Adjourned until the next session (see Minutes, page 95).

8. Western Samoa.

(*a*) Petition [1] dated May 19th, 1930, from Mr. O. F. Nelson (document C.P.M. 1073).
Observations of the New Zealand Government, dated December 5th, 1930 (document C.P.M.1134).
(Rapporteur: Lord Lugard.)

(*b*) Petition [1] dated May 19th, 1930, from Mr. A. John Greenwood (document C.P.M.1071).
Observations from the New Zealand Government dated December 5th, 1930 (document C.P.M.1135).
(Rapporteur: Lord Lugard.)

(*c*) Petition [1] dated September 18th, 1930, from the New Zealand Section of the Women's International League for Peace and Freedom (document C.P.M.1142).
Observations of the New Zealand Government dated January 28th, 1931 (document C.P.M.1142).
(Rapporteur: Lord Lugard.)

ANNEX 3.

GENERAL CONDITIONS TO BE FULFILLED BEFORE THE MANDATE REGIME CAN BE BROUGHT TO AN END IN RESPECT OF A COUNTRY PLACED UNDER THAT REGIME.

C.P.M.1183.

(*a*) NOTE BY M. VAN REES.

CONTRIBUTION TO THE EXAMINATION OF THE QUESTION OF THE GENERAL CONDITIONS REQUIRED FOR THE TERMINATION OF THE MANDATE REGIME IN A COUNTRY PLACED UNDER THAT REGIME.

On January 22nd, 1931, the Council decided to invite the Permanent Mandates Commission to pursue the study of the problem of the termination of a mandate *in its "general aspect"*.

The discussions which preceded this decision clearly showed that the Council does not expect this examination to extend to any particular cases or to the question of the conditions required for the admission of a mandated territory to the League.

As stated on that occasion by the Rapporteur to the Council, M. Marinkovitch—a statement to which no objection was raised by the other members of the Council—"The Mandates Commission must confine itself exclusively... to the general conditions that must be fulfilled before the mandate regime can be terminated in a country placed under that regime"; he added that it "was not required to deal with the second question, that of admission to the League".

This resolution makes no distinction between the various territories at present under mandate. The Commission is therefore called upon to examine the three categories of territories under A, B, and C Mandates, although it is obvious that, as regards the last two categories, the question is of purely theoretical interest.

* * *

The problem under consideration appears to involve the examination of the three following questions:

I. Does Article 22 of the Covenant provide in principle for a temporary regime?
II. If so, what authority is competent to pronounce the termination of the mandate?
III. To what conditions should the release of a territory from mandate be subject?

Ad I. We will first consider whether in principle the mandate system can terminate in any territory to which it applies, or whether, from a legal standpoint, the system must be regarded as permanent, if not in all mandated territories, at all events in some of them.

This question has on more than one occasion given rise to controversy, particularly in regard to the territories under B and C Mandates. While agreeing that, as regards the Asiatic territories the mandate system should come to an end sooner or later, certain authors are of opinion that this does not apply to the mandated territories in Africa and Oceania. To mention only two: Professor Henri ROLIN maintains that, while the mandated territories in the Near East should be regarded almost as protectorates, in the other territories the mandate "is essentially final and perpetual". He adds that the Convention under which the mandate was granted "constitutes an irrevocable

---

[1] Adjourned till the next session (see Minutes, page 187).

deed of transfer by the five Powers". [1] Without going so far as his colleague, Professor Giulio DIENA denies that the first paragraph of Article 22 of the Covenant is to be interpreted to mean that, in any and every territory, it should be the final aim of the mandatory Powers to form independent States. "That may be the case", he says, "in regard to A Mandate, but it cannot apply to B and C Mandates." [2]

The vast majority of authors, however, hold a different view—namely, that, in regard to all the mandated territories, the regime instituted by Article 22 of the Covenant should terminate as soon as it has brought those territories to a stage of political, social, and economic evolution when they can reasonably be regarded as able to stand alone. According to FAUCHILLE, "the international mandate normally terminates as soon as the object for which it was established has been achieved". [3] Professor Paul PIC says that "if we seek to discover the spirit (of Article 22) we shall find that its principal object is to affirm the obligation on the part of civilised States to assist weaker nations to rise to their level and gradually win their independence . . ." [4] "Its temporary character is the very essence of the mandate system", says another particularly clear-sighted author. "It is certain", he adds elsewhere, "that the object of the mandate system is to enable all the peoples placed under that system to win, first, autonomy and, ultimately, complete independence." [5]

Similar statements are to be found in a large number of the many studies on the theory of the mandate system published since that institution was set up.

Does this mean that the question should be regarded as finally settled ?

We must not lose sight of the fact that in this connection doubts have been expressed not only in scientific circles but also within the League itself, in particular at the Tenth Assembly, where the temporary character of B and C Mandates was disputed in the Sixth Committee. [6] Nor must we forget that the question has never been discussed in principle by the Council.

A somewhat closer examination of the various arguments for and against the theory of the temporary character of mandates, therefore, may not be superfluous.

The arguments of those who refuse to recognise this temporary character may be summarised as follows:

The mandates were granted for an indefinite period; neither the Covenant nor the texts of the individual mandates fix any date for the termination of the mandated regime. These instruments do not even mention the end of the mandate except as regards the more or less highly developed communities placed under A Mandate, in regard to which the fourth paragraph of Article 22 of the Covenant provides for "the rendering of administrative advice and assistance by a Mandatory *until such time as they are able to stand alone*". [7] This provision therefore lays down formally, but without fixing any date, that, as soon as these communities are able to stand alone, the mandate will come to an end.

There is, however, no such clause in respect of territories under B and C Mandates. It is true that the first paragraph of Article 22 provides that the principles laid down thereafter shall apply to territories and colonies inhabitated by peoples "*not yet able to stand by themselves under the strenuous conditions of the modern world*". But is it certain that this represents a general limitation of the *duration* of the mandates ? If so, the provision quoted above relating to A Mandate would have been superfluous, inasmuch as the first paragraph of Article 22 applies indifferently to all territories subject to the international mandate system. Moreover, it is hardly conceivable that the authors of the Covenant intended to express in such a roundabout way the fact that the regime was to have, as a rule, a limited duration, while the very structure of the introductory clause argues much more in favour of the interpretation that all they had in view was to *delimit the field of application* of the system.

It is also true that Article 22 speaks of "mandates" and "tutelage", two terms which in ordinary law preclude any idea of permanence. But it is common ground that it would be extremely unwise to attach the same connotations to these terms in international law as in civil law.

In conclusion, from the purely legal point of view, there is no ground for inferring from Article 22 that the temporary character of the system, as formally recognised in the case of the Asiatic territories, must also be recognised in the case of other territories under that system.

Against this, it may be argued that this exposition takes no account of the origin of the mandate system.

The victorious Powers having agreed at the close of the war on the two Wilsonian principles on which the Peace Treaties were to be based—the principle of the non-annexation of conquered territories and the principle of self-determination—the question arose whether those principles could satisfactorily be applied in their entirety to all the territories which were no longer under

---

[1] Henri ROLIN: "Le système des mandats coloniaux" (*Revue de droit international et de législation comparée*, Brussels 1920, page 351).

[2] Giulio DIENA: "Les mandats internationaux" (Academy of International Law at The Hague; *Recueil des Cours*, 1924, IV, Paris, page 247).

[3] Paul FAUCHILLE: "Traité de droit international public", Volume I, 1925, page 553, Paris.

[4] Paul PIC: "Le régime du mandat d'après le Traité de Versailles" (*Revue générale de droit international public*, Paris, 1923, page 9 of extract).

[5] J. STOYANOVSKY: "La Théorie des Mandats internationaux" Paris, 1925, pages 46 and 81.

[6] See the statements by the French, New Zealand and Australian delegates at the meetings of the Sixth Committee of the Tenth Assembly on September 14th and 16th, 1929.

[7] The A Mandate also refers to "the termination of the mandate". See Articles 5 and 19 of the Mandate for Syria and the Lebanon, and Articles 8 and 28 of the Mandate for Palestine. The treaties concluded between Great Britain and Iraq refer still more definitely to the termination of the mandate for Iraq.

the sovereignty of the States that had formerly governed them. It was felt that the second principle clearly could not operate in certain territories, because they were inhabited by peoples who at that time were incapable of self-determination, or, in other words, of self-government. This was the origin of the mandate system, which, having regard to the temporary incapacity of these peoples to assume the responsibilities of independence, required that the application of the principle should be suspended but should by no means be cancelled. This seems to be the capital point which cannot be neglected and stands in the way of any interpretation to the effect that, according to the letter of Article 22 of the Covenant, even some of the mandates are permanent. Although it was not expressed as perfectly as it might have been, the fact remains that beyond the slightest doubt the Peace Conference anticipated that a day would come when those peoples which were for the time being regarded as under tutelage could be recognised as fit for self-government, and that, consequently, the ultimate aim of the new system introduced into international law is nothing less, as STOYANOVSKY remarks, than that all the peoples subjected to it should win, first, autonomy and then independence.

In the case of the African and South Pacific territories, this goal is beyond dispute still so remote that it would be safe to say that it is really no more than of theoretical interest; and consequently, from a practical point of view, the question has at present no real importance except for the Asiatic territories. Clearly, however, this consideration cannot affect the principle—which has been accepted by almost all writers and by the mandatory Powers themselves—that the mandates system implies only a temporary charge.

* * *

Ad II. Some comment is called for on the question of the authority with which the decision as to the termination of the mandate rests.

It should be pointed out that for the new system to be introduced, the co-operation of three separate parties was necessary—the Supreme Council, which allocated the territories to be placed under mandate and appointed the Mandatories; the Council of the League of Nations, which confirmed the texts of the several mandates for each territory; and the mandatory Powers, which undertook to accept the mandates on the terms laid down.

Does it follow that the consent of these three parties is required before any particular mandate can be terminated ?

I am inclined to answer in the negative.

The Supreme Council, representing the Principal Allied and Associated Powers, distributed the former German colonies on May 7th, 1919, and the Near-Eastern territories detached from Turkey on April 26th, 1920 — *i.e.*, before the ratification of the Peace Treaties with Germany and the Ottoman Empire, and consequently, at all events as regards the German colonies, at a time when the League did not yet exist. It was in virtue of Articles 118 and 119 of the Treaty of Versailles and Article 132 of the Treaty of Sèvres that the Supreme Council, relying upon various practical considerations and acting, so to speak, as the liquidators of the consequences of the war, carried out this premature distribution of territory which was the first step in the introduction of the mandate system. This, however, was the full extent of the action taken by that body in regard to mandates, seeing that it was the duty of the League of Nations to enforce the system under Article 22 of the Covenant.

On August 21st, 1919, the Supreme Council appointed Belgium mandatory for the provinces of Ruanda of Urundi, which were detached from German East Africa, which had been placed under British mandate on May 7th, 1919. It should be noted, however, that on August 31st, 1923, an additional area known as the Kissaka area was detached from the territory allotted to Great Britain and attached to the Belgian mandated territory, without any intervention on the part of the Supreme Council. It was the Council of the League that confirmed this partition, following the conclusion of an agreement between the British and Belgian Governments.

It seems to follow that now that the mandates have been allotted the League Council regards itself as having sole jurisdiction in all questions connected with mandates, including those of the transfer and extinction of mandates. This view is corroborated, moreover, by the clause that appears in every mandate to the effect that any change in the terms of the mandate must previously receive the approval of the League Council; and what is the transfer or termination of a mandate but a radical change ?

Moreover, seeing that the Supreme Council, which existed in 1919, has long since been dissolved, and that the effective cessation of a mandate—the subject with which this note deals—certainly does not call for the re-establishment of such a body, it seems fair to conclude that it rests with the League Council alone to decide as to the termination of a mandate, provided always that, inasmuch as the mandate is a synallagmatic convention, its decision may only be taken at the request of the mandatory Power concerned.

There is one more point to consider: is the consent of the United States of America required before a mandate can be terminated ?

Although they did not ratify either the Covenant or the Treaty of Versailles, the United States claimed for themselves and their nationals, on the ground that they had taken part in the war and contributed to the defeat of Germany and her allies, the safeguards provided for nationals, of the States Members of the League. The claim having been recognised in principle, the Council requested the Powers concerned to come to an agreement with the United States by negotiation. The result was a series of conventions relating to all the territories under A and B Mandates and the Island of Yap, whereby the United States and their nationals enjoy the same privileges and

advantages as are granted under the mandate system to nationals of the States Members of the League. [1]

It is clear therefore that the United States are directly interested in the maintenance or abrogation of the mandate over the territories dealt with in these conventions. Consequently, before a mandate can be terminated, the United States Government is apparently entitled to demand to be consulted, either by the Council of the League, or by the mandatory Power which applies for the emancipation of the territory placed under its mandate.

* * *

Ad III. What conditions should be laid down for the emancipation of a territory subject to the mandate system ?

This is the third essential question that has to be considered.

If, having regard to the origin of the system, it is inferred from Article 22 of the Covenant that, generally speaking, the system is applicable only until the inhabitants of the mandated territories are able to stand by themselves, it follows logically that, as soon as their political maturity has been formally recognised by the competent authority, they must be given independence.

We have now to consider, however, how to satisfy ourselves that these peoples have reached such a stage of development that they cannot reasonably be refused the freedom to manage their own affairs without the interference of any foreign authority.

No general answer to this question is possible. It is a question of fact and not of principle, and the answer can be found only in local conditions as a whole connected with political and administrative organisations and their working and with the economic and social development of the territory.

If a scrupulous examination of these conditions leads to the conclusion that the maintenance of the mandate system in the territory is no longer needed, then the system automatically comes to an end by the recognition of the independence of the territory, which must thenceforward be regarded as a new State from the point of view of international law.

It seems almost needless to point out that the termination of the mandate system implies that all the rules and obligations that make up the system lapse entirely. These rules binding the Mandatory and the obligations laid down in the mandates were accepted by the Mandatory, and not by the Government of the territory whose independence is recognised. The Mandatory, having withdrawn on account of that recognition, we can hardly fail to conclude that the new State is under no obligation to continue to observe any of the provisions of the mandate.

Does that mean that the emancipation of the territory must not be made subject to ny conditions ?

Obviously not. On the contrary, in the case under consideration special conditions are essential. These conditions cannot, however, be based on the obligations laid down in the mandate under which the territory was previously administered. You cannot say that the mandate is abrogated and at the same time use the mandate as the legal basis for the establishment of conditions which must be fulfilled by the emancipated territory. When the mandate ceases to exist, the obligations it lays down entirely lose their force, unless they explicitly stipulate otherwise. Subject to this reservation, to which we shall return later, the conditions to be imposed must be justified by considerations foreign to the mandate.

These considerations may be summarised thus:

Inasmuch as the territories to which the mandate system applies were placed under that system for the sole reason that their inhabitants were regarded as not yet able to stand by themselves, the question arises: What would have been done with those territories if they had been fit for self-government ? In that case it is more than probable that, since annexation was out of the question, those territories, or at all events some of them, would be erected into independent States, as was done with certain territories detached from Russia and the Central Powers. But the Peace Conference would undoubtedly have imposed conditions answering to modern ideas—conditions of the same kind as were laid down when the new States of Poland, Finland, etc., were set up. Simply because certain territories had to be placed under a special system, it would not be unfair on the expiry of the period of transition to impose on them obligations of a humanitarian nature which would quite certainly have been imposed on them if the period of transition had not been found necessary. That is the primary justification for imposing conditions on the declaration of the independence of the mandated territories—conditions, we would hasten to say, aimed not at enriching or materially advantaging other States and their nationals, but at safeguarding the interests of racial, linguistic and religious minorities, securing freedom of conscience and worship and providing legal protection for foreigners. Any territory now under mandate which claimed emancipation but refused to accept these conditions would thereby show that it could not yet meet the demands which the civilised world has a right to make on a State worthy to take its place among the other nations.

In any case, they are not the only considerations.

The new State must also respect the rights either acquired *before* the entry into force of certain mandates and temporarily suspended during those mandates, or acquired *during* the mandatory

---

[1] The dates of these Conventions are as follows: Iraq, January 9th, 1930; Palestine, December 3rd, 1924; Syria and the Lebanon, April 4th, 1924; French Togoland and Cameroons, February 13th, 1923; British Togoland and Cameroons and Tanganyika, February 10th, 1926; Ruanda-Urundi, April 18th, 1923; former German colonies north of the Equator, including the Island of Yap, February 11th, 1922.

Administration, in virtue of regulations properly issued on the strength of the powers vested in the local authority.

The rights are as follows:

(*a*) In the first place, there are the rights of foreigners arising out of certain privileges and immunities, including the benefits of consular jurisdiction and protection as formerly enjoyed by capitulation or usage in the Ottoman Empire. The maintenance of these rights at the expiration of the mandate has been expressly provided for in the A Mandate.

Under the terms of Article 5 of the Syrian mandate and Article 8 of the Palestine mandate, these privileges and immunities were temporarily suspended in Syria and the Lebanon and also in Palestine, including Trans-Jordan. Nevertheless, these articles provide that they shall *at the expiration of the mandate be immediately re-established* in their entirety or with such modifications as may have been agreed upon between the Powers concerned, unless these Powers shall have previously renounced the right to their re-establishment before August 1st, 1914, or shall have agreed to their non-application during a specified period.

This is one consequence of the termination of the mandate under the terms of the mandates for Syria and Palestine. [1]

It is not, however, the only consequence, as Article 19 of the Syrian mandate and Article 28 of the Palestine mandate also provide for the safeguarding, on the termination of the mandate, of the financial obligations, including pensions and allowances, regularly assumed by the Administration of the territory during the period of the mandate. The Palestine mandate adds: " The safeguarding in perpetuity, under guarantee of the League, of the religious rights secured by Articles 13 and 14 of this mandate ".

It is hardly necessary to say that strict account will have to be taken of these formally guaranteed rights when the question arises of declaring the independence of the territories under A Mandate.

(*b*) Secondly, it should be pointed out that Article 12 of the Mandate for Syria and the Lebanon and Article 19 of the Mandate for Palestine require the Mandatory to adhere *on behalf of the territory under mandate* to any *general* international conventions already existing, or which may be concluded hereafter with the approval of the League, in respect of the following: the slave trade, the traffic in drugs, the traffic in arms and ammunition, commercial equality, freedom of transit and navigation, airways, postal, telegraphic or wireless communications, and measures for the protection of literary, artistic or industrial property; that Article 8 of the B Mandate [2] requires the Mandatory to apply to the territory under mandate any *general* international conventions applicable to its contiguous territories; that, finally, in virtue of a Council resolution of September 15th, 1925, the benefits of *special* international conventions have been extended to the mandated territories.

Do these accessions and extensions automatically lapse when the mandates in respect of the territories concerned come to an end ?

As regards the *accessions* relating to mandated territories in the Near East, the answer would seem to be in the negative. These accessions have been effected in accordance with the terms of the mandates themselves, on behalf of the territories, from which it may be inferred that they will remain in force until the Governments of those territories, when they have been erected into independent States, have denounced them.

On the other hand, the conventions providing for the *extension* of the benefits of general and special international conventions or treaties to the territories under mandate will no doubt lapse on the termination of the mandate, in view of the fact that these extensions have been made the subject of agreements between the mandatory Powers and some other State which will only remain in force during the period of the mandate.

This does not apply to the special Customs arrangements with an adjoining country, the conclusion of which on grounds of contiguity has been expressly provided for in Article 11, paragraph 2, of the Mandate for Syria and the Lebanon, and Article 18, paragraph 2, of the Mandate for Palestine. These arrangements will hold good on the termination of the mandates until they are denounced by the new Governments.

We are led by these considerations to conclude that the international acts of which mention has been made above do not necessarily demand the imposition of any special conditions on the termination of the mandate, as it would be too much to oblige the Government of the territory declared independent to make no change in the international relations existing at the time of the emancipation of the territory.

(*c*) Thirdly, it should be pointed out that the rights in respect of land and mines and other rights regularly acquired under the administration of the mandatory Power have the same legal force as if the territory had been placed under the full and entire sovereignty of that Power. Consequently, the termination of the mandate could not impair those rights which would have to be respected by the Government of the emancipated territory. Indeed, this is the substance of the Council resolution of September 15th, 1925.

(*d*) Finally, it is obvious that the cessation of a B or C Mandate cannot imply the cancellation of the financial obligations regularly assumed by the former mandatory Power. These obligations consist of public loans and repayable advances accorded by the mandatory Power. The right of that Power to the repayment of the sums advanced, with or without interest as the case may be, and the rights of holders of loan bonds to the payment of interest and periodical amortisation

---

[1] As regards Iraq, see the decision of the Council of the League of Nations of September 27th, 1924.

[2] Article 9 of the Mandates for Ruanda-Urundi and Tanganyika.

instalments in accordance with the conditions of the loans, must be acknowledged in full by the new States. This point has also been confirmed by the Council, which stated in the resolution quoted above "that the cessation . . . of a mandate cannot take place unless the Council has been assured in advance that the financial obligations regularly assumed by the former mandatory Power will be carried out . . . . ."

There is a further point of special interest to the States Members of the League and their nationals which must be mentioned.

It has been said above that the cessation of the mandate automatically entails the abrogation of all its regulations and obligations, unless otherwise provided. One of the obligations of the mandatory Power is the observance, in the territories under A and B Mandates, of the principle of economic, commercial and industrial equality. Generally speaking, the mandatory Power is forbidden to discriminate on the ground of nationality: its own nationals and those of other States Members of the League must, in economic, commercial and industrial matters, be treated on the same footing.

Will this obligation have to be assumed by the Government of the emancipated territory ?

It seems difficult to maintain this from the terms of the mandate.

Under the mandate system, the obligation in question is negative and not positive. It only guarantees to third Powers that the nationals of one of them will not be favoured more than those of others Powers, but it confers no permanent right upon them. The principle of equality establishes, for the period of the mandate, what is described as equality of treatment in certain fields, but does not confer on anyone a positive right which will subsist after the cessation of the mandate. It seems very doubtful, therefore, whether this principle could be legitimately invoked in order to impose its permanent observance on the termination of the mandate.

It is true that there still remains the argument that the cessation of the mandate must not interfere with the maintenance of international peace, and that consequently the continued application of the principle of equality, which was certainly introduced into the mandate system in order to safeguard the nations, must be imposed on the termination of the mandate. This argument can, however, of itself hardly be regarded as sufficient to justify the re-establishment of an obligation cancelled with the mandate itself. It may be pointed out that the re-establishment of this obligation would not involve any reciprocity on the part of the States which profited by it during the period of the mandate and that it would consequently gravely impair the sovereignty of the territories declared independent. This being the case, we may ask whether it would be admissible to recognise the independence of those territories subject to the prior assumption by them of an obligation which would deprive them of liberty of action in the economic field to the advantage of other States.

There is of course no doubt that the political motive which presumably led the authors of the Covenant to introduce, in paragraph 5 of Article 22 the principle of equality of treatment in " trade and commerce " is still as important as ever. But how can we conclude that, on the termination of the mandate, this motive, whose importance is not confined to the territories under mandate, would justify the maintenance of the principle of economic equality in the above-mentioned sense ? How is it possible to justify the claim that, after the cessation of the mandate, this principle should continue to be applied in all countries under mandate which have become independent States, including those belonging to category C to which it is not now applicable, although the Peace Conference did not impose economic equality on the new States set up as a result of the war, of which mention is made on page 208 ? If, at the time, the territories under mandate had had no need of a special transitional regime, would an obligation calculated to impair their independence and to serve the material interests of third Powers have been imposed on them, to the exclusion of every other State ? It is extremely improbable. On what grounds, therefore, would such discrimination be admissible at the end of the transitional period recognised as necessary in 1919 ?

* * *

In conclusion, it may be said that an international mandate cannot cease before the territory to which it applies has given conclusive proof that its political, administrative, economic and social development is such as to enable it to manage its own affairs as an independent State, it being understood that it is not for the inhabitants of the territory but for the League Council to decide whether those inhabitants are capable of standing by themselves.

The conditions on which the recognition of the independence of such a territory should be made to depend may be summarised as follows:

The Government of the new State would, in a formal written statement drafted by the League Council, assure and guarantee:

(*a*) The protection of racial, linguistic and religious minorities, in accordance with the terms of existing treaties or declarations relating thereto.

(*b*) The privileges and immunities of foreigners in the territories of the Near East, including the benefits of consular jurisdiction and protection as formerly enjoyed by capitulation or usage in the Ottoman Empire, unless some other arrangement relating thereto has been previously approved by the League Council in agreement with the Powers concerned.

(*c*) Liberty of conscience for foreigners in the other territories; [1] the free exercise of their religion and the religious, educational and health work of the missions, as also the interests of foreigners in judicial, civil and penal matters.

---

[1] These points have been provided for in the Capitulations, which only apply to the Asiatic territories under mandate. Nevertheless, only a limited number of States concluded Capitulation Treaties with the Ottoman Empire.

(*d*) The financial obligations regularly assumed by the former mandatory Power.

(*e*) The rights in respect of land and other rights acquired during the administration of that Power.

(*f*) As regards Palestine, the rights secured by Articles 13 and 14 of the Palestine mandate.

What practical value would a declaration of this kind have ?

In view of the fact that the only territories under mandate the emancipation of which may reasonably be contemplated in the fairly near future are those belonging to the A class, and, inasmuch as it is highly probable that the Governments of those territories would before long apply for their admission to the League, it may be answered that any such declarations deposited would, in the absence of direct sanctions, have neither more nor less value than any international treaty concluded, or undertaking given, by a Member of the League, involving obligations towards the League.

Montreux, June 1st, 1931.

C.P.M.1197(1).

(*b*) NOTE BY LORD LUGARD.

Termination of a Mandate.

The Terms of Reference.

1. Before dealing with the question referred to us by the Council, there are two preliminary points discussed by M. Van Rees: (*a*) Are the Mandates temporary ? (*b*) What authority is competent to terminate a mandate ? I venture to think that the Council by its reference to us assumes that a mandate is temporary, and that it has competence to terminate it. This is implicit in the question we are asked, and it is not for the Permanent Mandates Commission to dispute the correctness of the Council's view, which I venture to think is beyond any question. [1]

Points for Decision.

2. The mandates continue in force until the inhabitants of the mandated country are able " to stand alone ". Two questions arise: (*a*) What precisely is meant by the words " standing alone " and " the inhabitants " ?; (*b*) What assurances are required as regards: (1) the internal, and (2) the external conditions and obligations ?

Question of Maturity.

3. As regards the first question,

It is not sufficient to say that the ability of a country to stand alone is a question of fact without a clear definition of the meaning attached to the words. Can a country be said to be able to stand alone if it has to rely on a foreign Power for assistance: (1) in maintaining its integrity against external aggression, and for the preservation of internal order, or (2) for purposes of civil or judicial administration ? Many small States in the world ensure their freedom from aggression by alliances with more powerful States, and this is not considered to invalidate their claim to stand alone. The mandate system was obviously not introduced in order to prevent aggression, since annexation would have been equally effective. Inability to maintain *internal* order without foreign assistance, as also the need of foreign advisers, judges, etc., is a more serious disability. On the other hand, it is undoubtedly wise for a young State just emancipated from tutelage to ask for and accept assistance rather than court disaster by undue self-confidence. There may therefore be a transitional stage when the State can stand alone with the aid of a prop, or a buttress to lean upon, before it attempts to walk or run. Its willingness to do so may be the best guarantee for the complete fulfilment of the engagements into which it enters. A liberal interpretation of the words " to stand alone " may therefore be the wisest statesmanship. Progress towards complete independance is a process of slow evolution. The mandatory Power alone can judge whether the young State has the physical ability, whether it is imbued with the right spirit, and whether the final stage of evolution can best be achieved by putting it upon its own legs, even though it may need some extraneous help for a time in carrying out the obligations referred to below. The responsibility must rest with the Mandatory which gives its full reasons for its decision. The Council, acting

---

[1] It has been said that a mandate can only be terminated if the Mandatory requests that it should be. It has also been said that, when a country has reached the required standard, the mandate must be terminated.

The latter in my view is the more correct, but though a Mandatory, having borne the burden of tutelage, might be relucatnt to lay down its control, it is inconceivable that it should long refuse to recognise the claim of a large majority for independence if it believed the claim to be justified. If, on the other hand, it did not consider that the country was yet fit to stand alone, only an exceedingly strong world-opinion could induce the Council to take the initiative. For all practical purposes, the Council would never take action except at the request of the Mandatory.

on behalf of the Supreme Council which conferred the mandate, verifies the conclusions of the Mandatory by all means at its command, including the Permanent Mandates Commission which has studied the annual reports for years. Having done so, it confers a legal entity upon the new State on specified conditions.

Definition of the Inhabitants.

4. The second question is who are the " Inhabitants " who claim to be able to dispense with the mandate. There may be several communities who each claim autonomy, or there may be a majority (constituting the Government) confronted with very important minorities who do not desire the withdrawal of the mandate, or there may be a majority less politically developed and experienced than an indigenous minority with latent friction between them; or you may have a civilised, though numerically insignificant, minority with a vastly preponderant uncivilised majority. It is only necessary to pass in mental review the diversity between the several mandated territories to realise the impossibility of laying down anything but the broadest principles. I suggest the following:

(*a*) A comparatively small community, more or less homogeneous in a country where the mass of the inhabitants is quite unable to stand alone, can be granted local or municipal autonomy, but the mandated territory must be treated as a single entity and the mandate cannot be withdrawn until the bulk of the people are able to stand alone.

If, however, a group of States with separate organised Governments is comprised in a single mandate, there would be no objection to one or other of them being emancipated from the mandate if the Mandatory considers that it conforms in all ways to the conditions laid down in this memorandum and the Council approves.

(*b*) Where the Government is in the hands of an indigenous community which is accounted by the Council at the request of the Mandatory to be qualified for emancipation, and there are important indigenous minorities (Iraq) differing in race, religion and language under its rule who are averse to the withdrawal of the mandate, it is essential that the Council should be assured, before consenting to the withdrawal of the mandate, of the future well-being and just treatment of the minorities.

(*c*) Where an advanced and a less civilised community are mixed together, the mandate should not be withdrawn until the whole community is ripe for emancipation, and harmonious co-operation is assured.

Conditions of Withdrawal of Mandate.

5. I pass to the third question. What assurances are required as regards the internal and external conditions and obligations ?

(a) *Internal.* — The Council must be satisfied that the Mandatory has good grounds for its belief that the new State can maintain internal order and efficient government; that the Government of the area released from the mandate is acceptable to the majority, and the welfare and just treatment of racial, linguistic and religious minorities are assured; that the State is able and willing to fulfil the obligations it undertakes; that it has functioned for a certain time with success; and that there is an adequate prospect of economic and financial stability.

(b) *External.* — In the terms of the Council's decision of September 15th, 1925, the new State must accept " the financial obligations regularly assumed by the former mandatory Power, and that all rights regularly acquired under its administration shall be respected " and also any acquired prior to the mandate, including pensions, etc.; that it accepts the general principles of international law including such humanitarian Conventions of general application as those relating to slave-trade and the traffic in women and in drugs as a prerequisite to international recognition. Its adherence to other conventions would be dependent on its admission to the League and its particular circumstances, that in those cases in which the reimposition of extra-territoriality is stipulated for in the mandate if it ceases to be under that regime, it accepts the obligation, and in other cases that religious freedom and justice are assured to foreigners; all treaties made by the Mandatory on behalf of the territory remain in force until denounced by the new State.

The conditions are necessary and justified, not only on the analogy of the conditions imposed on Poland, Finland, etc., but because emancipation from a mandate is something more than independence, as is shown by the fact that Iraq, though subject to the mandate regime, is already independent. The mandate system gives effect to Article 22 of the Covenant which is part of the Treaty of Versailles to which Germany was a party, and care must therefore be taken that the conditions under which an ex-German colony is withdrawn from the international control imposed by that system do not prejudice any rights which Germany (or any other State) may have under the treaty. Equal commercial opportunity is obviously not an essential part of that system since it is not applicable to the C Mandate; whether for the reason stated it should be retained in the

countries under A and B Mandates if the mandate is withdrawn is a matter for the Council to decide. The concurrence of the United States of America should be invited before a mandate in which she claimed to have a voice is withdrawn.

C.P.M.1191 (1).

(c) REPORT BY COUNT DE PENHA GARCIA, RAPPORTEUR.[1]

Explanation of the Meaning of the General Question.

By the Council's resolution dated January 13th, 1930, the Mandates Commission was requested to study the problem of the termination of a mandate in the following terms:

> " Being anxious to determine what general conditions must be fulfilled before the mandate regime can be brought to an end in respect of a country placed under that regime, and with a view to such decisions as it may be called upon to take on this matter, the Council , subject to any other enquiries it may think necessary, requests the Mandates Commission to submit any suggestions that may assist the Council in coming to a conclusion."

At the Mandates Commission's eighteenth session I had the honour to be appointed Rapporteur, on the proposal of the Vice-Chairman of the Commission, M. Van Rees, for the study of the question raised by the Council.

In conformity with the mission entrusted to me, I submitted a report (document C.P.M.1126) which was placed on the agenda of our nineteenth session and discussed at the twenty-second and twenty-third meetings. The Mandates Commission did not enter upon the discussion of the general question dealt with in my report, for doubts had arisen in the minds of some of my colleagues in regard to the interpretation to be given to the Council's resolution of January 13th, 1930.

A discussion arose as to the meaning of this resolution. After a careful examination of the terms of the resolution and of the Minutes of the Council meeting, the Mandates Commission decided to submit to the Council a question worded as follows:

> " In compliance with the request contained in the Council resolution of January 13th, 1930, the Permanent Mandates Commission has begun its examination of the general conditions that must be fulfilled before the mandate regime can be brought to an end in respect of a country placed under that regime.
>
> " In the course of a preliminary discussion on this subject, the point arose whether the Council had intended to consult the Commission merely on the general problem of the cessation of mandates, or whether, on the contrary, the problem was only to be regarded in the light of the special case on which the question was raised by the Council.
>
> " The Commission is fully aware of the difficulties connected with the general solution of a problem the elements of which may vary very considerably according to the particular situation of each territory, the degree of evolution of the inhabitants and the different provisions of the mandates themselves.
>
> " After carefully analysing both the Council's request and the Minutes of the discussion which preceded it, the Commission inclined to the view that it has been called upon to study the general problem.
>
> " The Commission ventures to draw the Council's attention to its discussions on the subject and would be glad if the Council could definitely enlighten it on this point."

On January 22nd, the Council examined and discussed this question on the basis of a report and of a draft resolution submitted by M. Marinkovitch as Rapporteur.

The portion of this report dealing with the problem of the termination of a mandate reads as follows:

> " My colleagues will remember that, in its resolution of January 13th, 1930, the Council invited the Permanent Mandates Commission to submit suggestions as to the general conditions which must be fulfilled before the mandate regime can be brought to an end in respect of a country placed under that regime. The Council, which was anxious to determine those conditions with a view to the decisions which it may be called upon to take on this matter, wished to have the opinion of the Mandates Commission, subject to any other enquiries it might think necessary.
>
> " The report of the Mandates Commission and the Minutes of the discussions at its last two sessions show that the Commission felt somewhat uncertain of the meaning and scope of the Council's resolution of January 13th, 1930. This uncertainty is no doubt due to the diversity of the types of mandates, to the actual texts of the mandates and to the particular situation of each territory.
>
> " The Council had certainly not lost sight of these circumstances last year when it defined the problem which it requested the Mandates Commission to examine. There can be no doubt that the Council intended the Commission to undertake a general study of this problem. Having noted that there was a lacuna in what I might call constitutional law in regard to mandates—namely, the absence of provisions relating to the cessation of this regime—the

[1] See Minutes P.M.C. eighteenth session, page 158 and nineteenth session, pages 153 to 156.

Council considered that, before laying down regulations on this point, it would be best to consult the organ of the League most competent in the matter and the one best qualified in view of its experience, to study the bases of the decisions to be taken. I think that I am rightly interpreting the views of all my colleagues in stating that, in having recourse to this procedure, it was the intention of the Council, not to formulate detailed conditions, which may vary very considerably in each particular case, but the fundamental conditions which must be fulfilled before a territory placed under mandate in accordance with Article 22 of the Covenant is emancipated. Consequently, what the Council really desired were very general guiding principles to supplement those already laid down in Article 22 of the Covenant.

"The Council will doubtless confirm that its resolution of January 13th, 1930, does actually refer to the general examination of the problem and will accordingly request the Permanent Mandates Commission to continue its enquiries on these lines."

. . . . . .

After thus clearly defining the scope of the Council's resolution of January 13th, 1930, M. Marinkovitch proposed the adoption of the following text:

"The Council,

"1. In reply to the request of the Permanent Mandates Commission for an interpretation of the passage in its resolution of January 13th, 1930, regarding the general conditions which must be fulfilled before the mandate regime can be brought to an end in respect of a country placed under that regime:

"Confirms that this passage referred to the examination of the general problem and not the particular case in regard to which the question was raised, and

"Therefore invites the Commission to pursue its study of the general aspect of this problem.

" . . . . . "

It may be worth while to recall here the Minutes of the discussion by the Council of this part of M. Marinkovitch's report and of his draft resolution on the interpretation of the question put to the Permanent Mandates Commission in the Council's resolution of January 13th, 1930.

The first speaker who dealt with this question was M. Briand, who said that:

" . . . . . "

The French Government further endorsed the Mandates Commission's interpretation of its terms of reference with regard to the examination of the conditions for the termination of the mandates. It agreed with the Commission and with the Rapporteur in holding that this examination would only be really useful if it were carried out on general lines and was not restricted to the consideration of a particular case.

Mr. Henderson, President of the Council, then made certain observations as representative of the British Empire, which appear in the Minutes as follows:

"The PRESIDENT, speaking in his capacity as British delegate, desired to make a few observations on the Rapporteur's report. Those points all concerned Iraq, and he proposed to take them in the order in which they appeared in the report.

"The representative of Yugoslavia had suggested the reply to be returned to the Commission's enquiry as to the precise meaning and scope of the Council resolution of January 13th, 1930, regarding the general conditions to be fulfilled before the termination of a mandate. The reply proposed appeared to him entirely satisfactory, but he thought the Commission might be asked to complete its enquiry during its June session and include definite recommendations in its report on that session. He hoped that might be possible, though he realised fully the difficulty and complexity of the task entrusted to the Commission. He was sure his colleagues would agree with him as to the importance of establishing, as soon as possible, the fundamental conditions to govern the termination of a mandate."

. . . . . .

Lastly, the Vice-Chairman of the Permanent Mandates Commission made the following remarks:

"M. VAN REES..... said that he would confine himself to submitting two observations.

"His first observation related to the first resolution proposed by the Rapporteur, according to which the Permanent Mandates Commission was to be invited to continue its examination of the various aspects of the problem of the termination of the mandate regime.

"M. Van Rees would point out that this invitation was open to an interpretation which might go beyond the intention of the Council. A mandated territory which had reached so high a degree of development that there was no ground for continuing the mandate regime *was not compelled to solicit the favour of being admitted to the League.*[1] The termination of the mandate, which depended on the question whether the territory concerned was recognised by the Council, in agreement with the mandatory Power, as capable of conducting its affairs alone was a particular problem. *The conditions which the territory must fulfil to be admitted to the League was another.* [1]

"In order to obviate any confusion when the Mandates Commission came to take action on the Council's resolution, it would appear desirable that it should know exactly whether the Council desired it to confine itself to studying the first problem or whether the Council would be willing for it to deal also with the second, all considerations relating to concrete and particular cases being left on one side."

. . . . . .

---

[1] The italics are Count de Penha Garcia's.

In reply to M. Van Rees, M. Marinkovitch clearly defined his views in order to avoid all confusion:

" M. MARINKOVITCH, in reply to the first question put by the Vice-Chairman of the Mandates Commission, pointed out that the draft resolution which he had proposed to the Council was quite clear, as indeed had been that of January 13th, 1930. The Commission was merely asked in the resolution to reply to the question: ' What are the general conditions that must be fulfilled before the mandate regime can be brought to an end in a country placed under that regime ? ' As the Vice-Chairman of the Commission had said, the termination of a mandate was quite a different matter from admission to the League.

" In the first place, the League alone was the judge as regards the admission of a new Member, and therefore the League must be entirely free to decide whether the general moral, political and social standard of any people were sufficiently high to make it possible for it to govern itself, and whether it was desirable and possible to admit that such a country should have an influence on general decisions affecting all countries.

" M. Marinkovitch therefore considered that the Mandates Commission must confine itself exclusively to the actual terms of the draft resolution, that was to say, ' the general conditions that must be fulfilled before the mandate regime could be terminated in a country placed under that regime ', and was not required to deal with the second question, that of admission to the League. "

The draft resolution was then adopted.

No one having disputed the accuracy of the Rapporteur's interpretation, the Permanent Mandates Commission may be sure that what the Council asked it to undertake in its resolution of January 13th, 1930, was *a study of the general conditions that must be fulfilled before the mandate regime can be brought to an end in a country placed under that regime.*

This study should not concern itself with the particular case in connection with which the question was raised, nor does it include a study of the question of the admission to the League of Nations of the territory released from mandate.

This tallies with the conclusions at which I myself arrived in the following passage of my report of November 19th, 1930:

" The Council is not at present asking the Commission to pronounce on the case of Iraq. It calls for suggestions on the general conditions relating to the termination of a mandate.

" The method adopted by the Council is to be welcomed, seeing that it is both prudent and advantageous to regard the problems which may be raised by the termination of a mandate first of all from the point of view of general principles. This was clearly brought out by the first discussions in the Commission and the Council. I am aware that the Commission is not an academy, as M. Merlin rightly pointed out, and its task is not to select a number of principles which will be applicable to each and every case. M. Van Rees, however, indicated very rightly the functions of the Commission when he said that an endeavour to ascertain the exact interpretation of the various provisions governing the mandates system could not be without value, and that investigations into the solution of difficulties connected with certain subjects was desirable. The Commission has always taken this view.

" I think that we might profitably and quite appropriately discuss the general conditions for terminating a mandate. "

* * *

We must go back to the origin of the mandates system to grasp the nature of the legal and political conditions of the system. Article 22 of the Covenant, certain articles of the Treaty of Versailles and the texts of the mandates themselves constitute the legal sources in this connection. Their interpretation often obliges us to have recourse to many other documents. According to these sources there is one indisputable first principle—namely, that the mandate must terminate when certain conditions have been fulfilled.

The territories placed under mandate not being independent, for before the Treaties of Peace they belonged either to Turkey or to Germany, the aim of the mandate was to bring those territories to the condition necessary for complete independence. This they did not possess and were not yet capable of possessing, *i.e., they were incapable of self-government.*

It is for this reason that the mandates were created for an indefinite period, and that the termination of the mandate is governed by the series of conditions which enable the inhabitants of a territory to govern themselves. This is the doctrine embodied in the various provisions of Article 22 of the Covenant. The mandates or statutes of some of the territories or the instruments which take their place contain certain special provisions concerning the end of the mandate—for example, Articles 6 and 7 of the Treaty of Iraq, Article 28 of the Mandate for Palestine and Transjordan, and Article 19 of the Mandate for Syria and the Lebanon. Unfortunately, neither Article 22 of the Covenant nor the texts of the mandates have defined either the other general or special conditions of the termination of the mandate or the procedure required for this purpose. We shall therefore have to deduce them by interpreting the different provisions governing the mandates system.

It has sometimes been urged that the B and C Mandates were definitive, thus confusing a particular situation with a legal principle.

All the mandates are equally of limited duration, for all are based on Article 22 of the Covenant, whose spirit was determined by the fifth and twelfth of President Wilson's points. The system was created to remedy the incapacity of the territories to govern themselves. *Ablata causa cessit effectus.*

That the absence of this condition may continue in the B and C Mandates nobody will deny, but it is quite possible to imagine that, although these peoples are still somewhat backward, they may in the more or less distant future reach a stage at which they will be able to rule themselves. It is indeed one of the duties of the mandatory Power to pave the way for this evolution. Moreover, in formulating the general question as it did, the Council made a unanimous pronouncement as to the temporary character of the mandate.

Capacity for Self-Government.

According to the general terms of Article 22 of the Covenant and of the provisions of the texts of the mandates, which expressly stipulate that the mandate will be exercised in conformity with Article 22, the fundamental condition for the termination of a mandate is that a country under this regime should possess a political, administrative and economic organisation enabling it to *stand by itself* or *govern itself under the strenuous conditions of the modern world.* There is thus a question of fact, the determination of which is not so easy as might be imagined.

This capacity of self-government is explained by the continuation of the sentence " under the strenuous conditions of the modern world ". This means that the capacity of self-government must be able to exert itself smoothly under the present political, economic, commercial and other conditions of the modern world.

It is not only the system of government, the stage of development of the population, the economic equipment, the guarantees of individual rights, the administration of justice or administrative ability which indicate the existence of this capacity. A large number of other circumstances must be taken into consideration, notably the solidity of the social framework of the future State and its capacity to maintain its independence. The principal reason for the creation of the mandates system was precisely the impossibility of organising independent governments which would be stable and would truly represent the population of the territories separated from the Ottoman Empire or of the former German colonies. Annexation having become impossible in view of the Wilson principles, the mandatory system " a contorni imprecisi ed a definizione vaghe " —as an Italian author has said not without irony—was devised.

Practice has improved the system, which undoubtedly represents a great advantage for the territories under mandate not only from the point of view of the safeguards ensured to their inhabitants, but also because it holds out the hope of their attaining independence by stages. What some of the more advanced territories at present under mandate claim is this last stage. This is the natural ambition of communities possessing a certain moral unity and a corresponding degree of development. It is the sacred right of those really capable of governing themselves.

However, as the notion of rights implies that of obligation, the recognition of ability for self-government is contingent upon an examination of ability to fulfil the normal obligations of modern States. To-day these obligations are many and their weight is considerable, for the standard has been set by rich and powerful States.

It is owing to these various circumstances that the question of ascertaining whether the territory under mandate is, in fact, capable of conducting its own affairs, in order to judge of the possibility or expediency of terminating a mandate, is a very complicated one.

Only a good sociological student can deduce from the facts, that he has verified and studied, conclusions which experience alone can ratify or disprove. The vital factor is the existence of capable government institutions possessing authority over the population and having given proof of their worth over a certain period of time. It is after all with the members of these institutions that the League Council will have to deal in settling the new situation which will be created by the termination of the mandate.

It is they who will be the trustees of the new order, for which they will have to assume responsibility. Before deciding upon the termination of the mandate, it will therefore be necessary to study carefully the political and administrative organisation and the ability of these organs of government. Other points will also require careful examination, particularly:

1. The conditions of external security, including frontier questions and the capacity of maintaining order within the country;
2. The social and moral state of the population;
3. The spirit of the legislation in force;
4. Economic and financial conditions.

The Maintenance of Peace.

The somewhat chequered history of the constitution of the mandates system shows that, if this system arose out of the war settlement, it was conceived and transformed for the purpose of ensuring peace.

If we study the various proposals and the negotiations of 1919 and the following years up to 1924, we find that one fact dominates the institution of the mandates system, the conviction that it must be an instrument for the consolidation of peace.

It has been asserted that it has obviated dangerous rivalries, that it has given a maximum of guarantees to the territories placed under mandate and that at the same time it has ensured the Members of the League of Nations a regime of equality very favourable to the maintenance of peace.

This political character of the mandates system cannot be forgotten when the time comes for a mandate to terminate. It is evident that the new regime must not be contrary to the maintenance of peace and must not weaken it.

This preoccupation, which is at the very basis of the Covenant, is undoubtedly one of the fundamental conditions for judging the expediency of terminating a mandate when the first condition of which we have spoken, the ability to conduct its own affairs, has already been recognised in respect of a territory under mandate.

Indeed, this second condition supplements the first and is equally essential. It is within the framework of the organisation of peace that self-government and the independence of the territory judged by the Council to be capable of being freed from the mandatory system must be exercised.

Initiative or Consent of the Mandatory Power.

All the mandates have their origin in Article 22 of the Covenant, but each of them has a constitutional charter containing the granting of the mandate, the undertaking entered into by the mandatory who accepts it and the special conditions of its exercise. The granting and the operation of the mandate are therefore based on a bilateral act which cannot be modified without the consent of both parties.

The termination of a mandate therefore concerns the League of Nations, the mandatory Power and the mandated territory which the latter represents.

It is the mandatory Power which is responsible for the peace, good order and good administration of the territory, and which must do all in its power to increase the material and moral well-being and the social progress of the inhabitants.

It is therefore the mandatory Power which as a general rule must take the initiative for the termination of the mandate.

It is better qualified than anyone else to judge of the territory's capacity for self-government.

This initiative might also be taken by the Council, but in this case the consent of the mandatory Power would be necessary, since otherwise the termination of the mandate would be equivalent to an act of deposition or to a unilateral decision incompatible with the decisions of the Principal Allied and Associated Powers which conferred the mandates and with the acceptance by the Mandatories of the burdens and responsibilities of the mandate.

Another and cogent reason might be adduced to justify the necessity of the mandatory Power's initiative or consent for the termination of the mandate. The mandatory Power's moral responsibility continues even after the termination of the mandate. If the emancipated territory did not succeed in conducting its own affairs within the framework of the organisation of peace after the termination of the mandate, it might justifiably be concluded that the mandatory Power had not been able to accomplish the task which it had accepted.

Such a judgment would have no value if the mandate could be terminated without any action on the part of the mandatory Power.

It is also evident that the latter must possess a more complete knowledge than anyone of the conditions of development of the territory and of its capacity for self-government. While it is the Council that must judge the main conditions leading to the termination of the mandate, there can be no doubt that the principal source of information on this subject is constituted by the mandatory Power's annual reports, by its investigations and by the statements of its accredited representatives.

The termination of the mandate is not an event which can occur suddenly. It must be the outcome of a process of evolution, the development of which can be followed and which must be promoted and prepared a long time in advance.

The three conditions we have studied briefly—viz., ability of the territory to govern itself and conduct its affairs alone, compatibility of the termination of the mandate with the requirements of the maintenance of peace, initiative or consent of the mandatory Power, constitute the essential conditions before the termination of a mandate can be taken into consideration.

Once these three conditions have been fulfilled, a certain number of others must be considered which form the link between the new regime and the old.

The recognition or granting of full sovereignty to the territory whose mandate is to come to an end must be subordinated to these conditions.

When the mandate was constituted and while it was in force, events occurred and rights were acquired which must be taken into account. The termination of the mandate cannot make a clean sweep of all previous occurrences.

When the mandate comes to an end, the territories under mandate do not obtain their independence by a sort of act of spontaneous generation. It is from the hands of the League of Nations, on the basis of the Covenant, that they must obtain the recognition of their sovereignty and the act constituting their new legal standing. This is the natural consequence of the circumstances of their creation.

General Conditions and Guarantees to be provided for upon the Termination of a Mandate.

A number of texts of mandates contain the recognition of certain principles which will continue to hold good even after the termination of the mandate, notably the cases mentioned in Articles 5, 11 and 12 of the Syrian Mandate and Articles 8, 13, 14 and 28 of the Palestine Mandate. In each case in which a mandate terminates, the text of the relevant mandate must therefore be examined to ascertain what rights or conditions of this kind exist. A second point of great importance for the future consists in the situation of any racial, linguistic or religious minorities there may be in the territory which is a candidate for release from the mandate. While the mandate was in force,

they were under the protection of the mandatory Power and of the League. If the mandate is to come to an end, attention must be given to their situation in the future. Consideration of the events connected with minorities while the mandate was in force will show the extent of the guarantees which are necessary. These guarantees, which must be expressly laid down by law, must be solemnly proclaimed and recognised in the act which terminates the mandate. They must ensure internal peace in order to create that moral unity on which a country's life must be based.

The recognition of the rights necessary to the development of these minorities while ensuring harmonious relations with the dominating majority is often difficult. The annual reports furnish a number of observations which will often throw sufficient light on this problem. The Council can in any case employ other means to gain a clear view of all the aspects of this exceedingly delicate problem.

A third condition must also be taken into consideration—namely, the guarantee of freedom of conscience and of free worship for foreigners.

This condition was imposed on the mandatory Powers and must be enforced when the mandate concludes. Naturally, this stipulation is subject to the requirements of public order and morals.

The question of the establishment and activity of missions must also be examined, especially for certain mandates. It goes beyond the simple guarantee of freedom of conscience and worship and may, in certain cases, be of special importance.

In the fourth place, it will be necessary to consider the interests of foreigners in regard to civil and penal judicial procedure. Some mandates suspended the privileges and immunities of the nationals of certain countries while the mandate was in force, since the mandatory Power ensured them protection and justice. There are special cases provided for in these mandates which will have to be settled in agreement with those concerned. Apart from these exceptional cases, it will be necessary to examine whether the judicial organisation and the system of laws in force provide the necessary guarantees.

In the fifth place, steps will have to be taken to ensure that properly acquired rights, particularly land and mining concessions, etc., will be respected. This is a point of great importance, for it might lead to grave difficulties with other States.

The obligations entered into by the mandatory Power must be maintained and respected by a formal undertaking of the new State.

In the sixth place, it will also be necessary to provide for the recognition of the financial obligations regularly assumed by the former mandatory Power. The Council considered this point so important for the development of the territories under mandate, that on September 15th, 1925, it took the following decision:

> " The cessation or transfer of a mandate cannot take place unless the Council has been assured in advance that the financial obligations regularly assumed by the former mandatory Power will be carried out and that all rights regularly acquired under the administration of the former mandatory Power will be respected. When this change has been effected the Council will continue to use all its influence to ensure the fulfilment of these obligations. "

Among the preliminary assurances which the Council must take into consideration should, in the seventh place, be included the observance of the general international conventions. These conventions constitute an important factor in the organisation of peace. The majority represent obligations which all civilised countries must assume.

It would be absurd that the cessation of the mandate, which is a consummation, should leave the new State free from these obligations, recognised and accepted by the majority of civilised countries.

As regards bilateral conventions the new States will have all the rights of the former mandatory Power, including the rights of denunciation.

Among the obligations imposed on the Mandatories in the A and B Mandates is economic, commercial and industrial equality in favour of the Members of the League. This obligation owed its origin to the desire not to permit the mandatory Power to confer advantages on its nationals in the mandated territories. After the cessation of the mandate, there would no longer be any reason for its existence, and the Government of the emancipated territory should be free to grant this equality, subject to reciprocity.

It may be asked whether the cessation of the mandate should not be accompanied by a special examination of the Mandatory's administration. In reality, this examination will have been carried out each year by means of the annual report and the observations it has called for. The examination of the last report before the termination of the mandate would however make it possible to frame a kind of summary of the Mandatory's action, which would not be devoid of interest, provided it was prepared with that purpose in view.

The general conditions to be laid down before the end of a mandate would be aimed at ensuring the peaceful exercise of free sovereignty in the mandated territory, the release of the mandatory Power from its obligations and the respect of the rights acquired by the latter and by other States.

It should not, however, be forgotten that the mandate regime exercised in the name of the League has involved rights, duties and responsibilities for the latter.

While the Council has the right to decide upon the end of a mandate, it is its duty to satisfy itself that this act will be to the benefit of the territory and of the organisation of peace.

With all the mandates, the mandatory Power is responsible for internal order and the defence of the territory. These two problems must receive special consideration when the cessation of a mandate is considered. The opinion and information given by the mandatory Power will be of the greatest importance, for the latter, in taking steps to bring about the termination of a mandate, assumes towards the League an undoubted responsibility, of which the Council's decision can only partly relieve it.

Competence and Procedure.

A. *Competence.*

The creation of the mandates affected three entities: the Supreme Council, representing the Principal Allied and Associated Powers; the League of Nations through its two organs, the Council and the Assembly, and the mandatory Powers.

The rôle of the Supreme Council was that of assignor, as it were, of the territories taken from the enemy. It assigned them in order to give effect, according to the Wilsonian principles, to Articles 118 and 119 of the Treaty of Versailles and 132 of the Treaty of Sèvres. These principles having led to the creation of the mandates system, the Supreme Council simply acted as a kind of liquidator, and its functions in the matter then came to an end, since after the assignment only the League and the mandatory Powers remained as active organs of the regime according to the terms of its constitution.

Hence competence with regard to the termination of mandates rests with the League.

The mandatory Power, as representative of the territory, cannot have competence to decide upon the termination of a legal attribution which it received from another authority. It is, nevertheless, a party to the case, either as mover of the request for the mandate's termination or as representative of the territory.

Where the League is concerned, the Council is the principal organ in this connection. Article 22 expressly says so in paragraphs 7, 8 and 9, and the practice of the mandates system has confirmed this. The Assembly only comes in later to receive, discuss and pronounce on the draft resolutions proposed to it by the Rapporteur of the competent Commission.

It is therefore on the Council that falls the duty of studying the circumstances which make it desirable to determinate a mandate and of pronouncing a decision, for it is the competent authority for these questions.

This competence appears to be still wider according to a resolution of September 15th, 1925, in which the Council reserved the right to continue to use all its influence, even after the termination of a mandate, to ensure the fulfilment of obligations regularly assumed by the former mandatory Power which remain incumbent upon the new State.

This principle, the importance of which must be emphasised, defines the legal situation of a territory under mandate even after the latter's termination. A moral tie still binds it to the Council, of which it has been, as it were, the ward, and to the League, in whose name it has been administered and brought to the stage of independence. This principle formally proclaimed by the Council gives the latter's competence a very wide range.

B. *Procedure.*

Neither Article 22 nor the texts of the mandates contain any reference to the procedure for the termination of the mandate. It would appear, however, that normally things should occur as follows: In its annual report or in a special report the mandatory Power should open proceedings before the Council for the termination of the mandate. This report would be examined by the Mandates Commission; the Council would take cognisance of it, consult any authorities it might think necessary, ask for evidence and information and even order enquiries to satisfy itself of the complete maturity of the territory which was a candidate for full sovereignty.

The question of a decision would eventually be placed on the agenda according to the usual procedure.

If the Council is favourable to the termination of the mandate, it will then have to decide upon the terms of the act of termination of the mandate and the obligations it must require the new State to assume at the moment the latter comes of age.

Once this text has been approved, it only remains for it to be signed by the legitimate representatives of the new State. The mandate will have come to an end. The Assembly in noting this fact will give the new State the *de facto* recognition of the Members of the League of Nations. The countries which are not Members will be able to do so in the usual way.

There is one country, however, the United States of America, which is in a special position. This country, although having taken part in the war and contributed to the defeat of Germany and Turkey, did not ratify the Covenant, but, when the mandates system was organised, it claimed the right to intervene. There are therefore already precedents as to procedure in the history of mandates to decide this special case. As a matter of fact, the States not Members of the League would have no reason to intervene in connection with the termination of a mandate. Once the termination has been pronounced, they will have before them a free State enjoying full sovereignty, with which they can deal in the usual conditions of international law.

Conclusions.

The termination of a mandate therefore appears to us to be the normal consequence of the events provided for in the system. It may be fairly near in the case of some mandates and distant in the case of others, for the nature and conditions of each mandate are dissimilar. Not only are there three classes of mandates, but in each class there are very different mandates. It is enough to recall that one of the mandates is exercised over a territory whose independence the mandatory had previously recognised. Each of the mandate charters must therefore be carefully considered at

the time of the termination of the mandate, for a certain number contain special provisions which must be taken into account.

The question of ability for self-government, within the scope of the organisation of peace, dominates any decision to be taken with regard to the termination of a mandate.

This is a question of fact which must be decided on the basis of the mandatory Power's reports.

There can be no improvisation in such matters. The process of evolution towards the capacity defined and provided for in Article 22 of the Covenant must be quite clear.

The form it takes will not necessarily be one belonging to a European State. It may take any form corresponding to that of one of the Members of the League.

The essential thing is that there should have been a capable Government in authority for a certain length of time, supported by the mass of the population, enjoying authority and having given proof that it is capable of governing within the framework of the organisation of peace.

Naturally there must be a certain moral unity in the territory as a whole and the degree of social development therein must be such as not to be in opposition with the general principles of human civilisation. The spirit which dominates the Government and population must give some guarantee of internal and external peace. It is also necessary that the financial and economic position of the territory should be such as to afford it a minimum of financial independence.

The laws in force must ensure to both nationals and foreigners individual rights and guarantees corresponding to the general principles of international law.

The territory must possess the necessary elements for the maintenance of public order.

Once these general conditions have been found to be well established and likely to be durable, the termination of the mandate will probably take place without obstacle or harm.

The study of the guarantees or general conditions to be provided for in respect of the termination of the mandate is also a question of fact varying according to the mandate concerned.

In this connection two of the main principles must obviously be the respect for acquired rights and the determination to maintain internal and external peace.

It would be a paradox if the League's mission of supervising the development of the territories under mandate should lead to the creation of States which were not capable of adapting themselves to the spirit of the organisation of peace.

The new State will no doubt be a sovereign State, but when the sovereignty which was divided during the existence of the mandate takes normal shape, it must naturally recognise the various provisions constituting the international obligations which govern the organisation of peace.

I do not know whether it is necessary to draw up suggestions for the Council in a summarised and precise form according to its request of January 13th, 1930, or whether it would be better to draw its attention to the documents, reports and discussions of the Mandates Commission during its nineteenth and twentieth Sessions.

I rely chiefly on my colleagues' wisdom not only to solve this important problem of the termination of mandates, but also to give a reply to this question, a reply which will no doubt emerge from the protracted discussions to which this extremely complex subject is certain to give rise.

In this report I have simply endeavoured to deal with the questions in a synthetic form, which our debates will doubtless improve and supplement.

ANNEX 4.

C.P.M.1189.

GENERAL AND SPECIAL INTERNATIONAL CONVENTIONS APPLIED IN THE TERRITORIES UNDER MANDATE.

REPORT BY M. ORTS.

1. The application in the territories under mandate of the international conventions to which the mandatory Powers are parties has been dealt with on various occasions by the Permanent Commission.

This question has been the subject of two reports by members of the Commission, submitted to the third session (Minutes, C.P.M.III, pages 194-195) and to the sixth session (Minutes, C.P.M.VI, pages 169 and 171) by M. Orts and M. Palacios, respectively. It was also dealt with at the twelfth session (Minutes, C.P.M.XII, pages 128 and 198), the fifteenth session (Minutes, C.P.M.XV, page 210) and the nineteenth session (Minutes, C.P.M.XIX, page 141).

2. At the fifteenth session, the Chairman summarised the position to date, and at the same time defined the scope of the work with which your Rapporteur was to be entrusted. His remarks are reproduced in the Minutes, as follows (page 210):

> " The Chairman said that during its twelfth session, the Permanent Mandates Commission had taken note of lists of general and special conventions applied in each territory under

mandate, drawn up by the Secretariat on the basis of information obtained from the annual reports of the mandatory Powers, or from the *Treaty Series* of the League of Nations.

" On March 5th, 1928, the Council, in conformity with the recommendations of the Commission, had asked the mandatory Powers to revise these lists.

" Up to the moment, lists had been received from the Union of South Africa, Belgium, New Zealand, Great Britain (in so far as Tanganyika was concerned), France (for the Cameroons and Togoland). The replies regarding the other territories: Syria, Iraq, Palestine, the Cameroons and Togoland under British mandate, the Islands under Japanese mandate, New Guinea and Nauru, were not yet forthcoming. It was, however, possible that the missing lists would reach the Secretariat before the next session of the Permanent Mandates Commission.

" In these circumstances, the question arose *as to the action to be taken in regard to such lists*. It might, perhaps, be useful for the Permanent Mandates Commission to express the hope, at its present session, that these lists, which were of great importance from the point of view of the mandates systems, should be printed.

" At the same time the Commission might perhaps ask M. Orts—to be assisted, if necessary by one or two of his colleagues—*to submit*, for the next session of the Commission, *observations concerning these lists*, especially in regard to the conventions not applied in the territories under mandate and the reasons given by the mandatory Powers for their action. "

3. Since the termination of our fifteenth session, the last replies from the mandatory Powers have been received at Geneva, and thus the preliminary work of compilation carried out by the Secretariat at the request of the Permanent Mandates Commission has been revised in its entirety by the mandatory Powers, and rectified in the light of the observations submitted by them.

This preliminary work was then remodelled, and is now before us in the form of a series of synoptic tables, printed in proof, and entitled: " Tables of International Conventions applied in the Territories under Mandate ".

As stated in the introduction, this new document was drafted by the Secretariat, and the latter are to be congratulated on the form they have given to it; it is exactly what such a document should be, inasmuch as it contains in the smallest possible space all the information at present available on the subject. The form is the same as that of a document previously published, and approved by the Council and Assembly—namely, the " Tables, Diagrams and Graphs showing the State of Signatures, Ratifications, and Accessions in Agreements and Conventions concluded under the Auspices of the League of Nations up to September 1st, 1930 " (document A.20.1930.V).

4. As regards the first question raised by the Chairman at the fifteenth session, your Rapporteur should say what use he thinks should be made of the " Tables of the International Conventions applied in the Territories under Mandates ".

A distinction should, it seems, be made here between general conventions and bilateral or special conventions.

We know from the terms of the mandates that the mandatory Powers have undertaken to apply to the territories the tutelage of which had even entrusted to them any general conventions " applicable to their contiguous territories " [1] or any general conventions " already existing, or which may be concluded hereafter, with the approval of the League of Nations " respecting certain subjects indicated in the mandate, [2] as the case may be, and to " adhere on behalf of the territory under mandate to any general international conventions already existing, or which may be concluded hereafter with the approval of the League of Nations " respecting certain questions specified in the mandate. [3] In this connection, the Anglo-Iraqi Treaty (Article 10) provides that " the High Contracting Parties agree to conclude separate agreements to secure the execution of any treaties, agreements or undertakings which His Britannic Majesty is under obligation to see carried out in respect of Iraq ".

Accordingly, the application in the territories under mandate of general international conventions, or accession, on behalf of the territories under mandate, to the general conventions to which they are Parties, constitutes for the mandatory Powers the execution of an *engagement* which they are not at liberty to evade. On the other hand, the Council and Assembly resolutions, relating to the application to the territories under mandate of certain special conventions are not of the same imperative character, but are of the nature of *recommendations*, the text of which allows considerable latitude to the mandatory Powers as regards their application.

In view of this distinction, your Rapporteur concludes that, although the publication, in the form proposed, of the list of general conventions made applicable to the territories under mandate would give rise to no objection, this might not be the case with regard to the publication of the list of special conventions which have voluntarily been made applicable by the mandatory Powers to certain territories placed under their mandate. Such publication might give rise to comparisons between the various degrees of goodwill shown by the various mandatory Powers in deferring to the wishes of the Council and Assembly, and might lead to conclusions which would

---

[1] See Article 9 of the Belgian Mandate for Ruanda-Urundi, Article 8 of the French Mandates for Togoland and the Cameroons, Article 8 of the British Mandates for Togoland and the Cameroons.

[2] See Article 9 of the British Mandate for East Africa.

[3] See Article 12 of the French Mandate for Syria and Lebanon and Article 19 of the British Mandate for Palestine.

not be justified, especially as no time-limit was laid down within which these recommendations were to be put into effect. Moreover, publication in the form contemplated, without the consent of the Powers concerned being previously secured, might look like indirect pressure in a matter where the execution of the recommendations in question should depend exclusively on the inclinations of the Powers.

5. These considerations lead me to make the following proposals:

(*a*) The table relating to the special conventions should be kept separate from that of the general conventions, and, until further notice, the former should preserve the character of an internal document for the exclusive use of the Permanent Mandates Commission.

(*b*) The " Table of General International Conventions applied in the Territories under Mandate " should, without further delay, be communicated to the Council and Members of the League and published. It should be proposed to the Council that this document be regularly kept up to date, with the assistance of the data to be supplied by the mandatory Powers.

(*c*) The Table of special conventions should be submitted to the representatives of the mandatory Powers accredited to the Permanent Mandates Commission, when the next annual reports on the administration of the various mandates are examined. The accredited representatives should be invited to check the table and say if there is any objection to this document being published in its present form.

6. In accordance with the suggestion made by the Chairman at the fifteenth session, your Rapporteur has also been asked (with the assistance, if necessary, of one or two of his colleagues) to submit observations concerning the lists of conventions, especially in regard to the conventions not applied in the territories under mandate and the reasons given by the mandatory Powers herefor.

I may say that, generally speaking, the mandatory Powers have notified their accession to the international conventions to which they were bound under the terms of their mandates to accede, or applied to the territories under their mandate any conventions applicable to their neighbouring possessions or colonies. Should there be any exceptions, the best plan would seem to be, not to incorporate them in a general report, but to take the opportunity, when the annual reports are examined, of bringing to the notice of the representatives of the Powers concerned any omissions which might have been found, and, if necessary, of giving these Powers a chance of making them good.

The accomplishment of the last part of the work I have been asked to undertake might be left until fresh exchanges of views with the accredited representatives have made it possible to appreciate the reasons which may have led the mandatory Powers not to apply in the territories under their mandate particular special conventions, the application of which would seem calculated to further the economic development of these territories or to be in the moral, social or material interests of their inhabitants.

ANNEX 5.

IRAQ.

PETITIONS FROM THE BRITISH OIL DEVELOPMENT COMPANY, LIMITED, LONDON. [1]

C.P.M.1182.

(*a*) Letter, dated June 4th, 1931, from the British Government to the Secretary-General replying to a Question raised by the Permanent Mandates Commission.

London, June 4th, 1931.

In his letter No. 6A/24326/516 of February 7th last, the Acting Secretary-General of the League of Nations was so good as to inform the Secretary of State for Foreign Affairs that the Council of the League, in the course of its sixty-second session, had approved the conclusions reached by the Permanent Mandates Commission, in the course of its nineteenth session, on certain petitions submitted by the British Oil Development Company.

2. The conclusions of the Permanent Mandates Commission were to the effect that it should be ascertained from the Mandatory Power whether there exists a judicial authority competent to pass upon the matter which forms the subject of the petitions of the British Oil Development Company.

3. This enquiry has been carefully considered, and I am directed by Mr. Henderson to request you to inform the Permanent Mandates Commission that, in the opinion of His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland:

1. There exists no judicial authority in Iraq other than the ordinary civil courts competent to deal with a claim by the British Oil Development Company, and an action by that Company against the Iraqi Government would lie in such courts if the Company could show a *prima facie* cause of action.

---

[1] See Minutes of the eighteenth and nineteenth sessions of the Permanent Mandates Commission and Minutes of the Council of January 22nd, 1931, *Official Journal*, February 1931, page 182.

2. In so far as the Company's petition raises questions concerning the interpretation of Article 94 of the Iraqi Constitution, the High Court contemplated in Article 81 of that Constitution would appear to be the competent authority to consider such questions; but under Article 83 of the Constitution that Court can only be convoked by Royal Iradah, to be issued with the concurrence of the Iraqi Council of Ministers.

(Signed) G. W. RENDEL.

C.P.M.1205.

(*b*) REPORT BY M. RAPPARD.

During its nineteenth session, the Commission examined the petitions of May 25th and September 17th, 1929, and June 6th, 1930, of the British Oil Development Company, Limited, London, regarding the petroleum resources of Iraq. The conclusions formulated by the Commission for submission to the Council with regard to these petitions read as follows:

" The Commission,

" Considering that it cannot examine a petition with a view to formulating recommendations to the Council so long as a legal remedy is still open to the petitioner;

" That it cannot state whether the petitioner is or is not able to bring an action against the Government of Iraq:

" Decides to request the Council to ask the mandatory Power to state whether the petition of the British Oil Development Company can be examined by some judicial authority in Iraq or Great Britain, and, if so, which. "

In accordance with our suggestion, the Council asked the mandatory Power to inform us on the point whether the subject of these petitions could be examined by any judicial authority and, if so, which.

In a letter dated June 4th, 1931 [1], the text of which has been communicated to the Commission, the British Government states:

" 1. There exists no judicial authority in Iraq other than the ordinary civil courts competent to deal with a claim by the British Oil Development Company, and an action by that Company against the Iraqi Government would lie in such courts if the Company could show a *prima facie* cause of action.

" 2. In so far as the Company's petition raises questions concerning the interpretation of Article 94 of the Iraqi Constitution, the High Court contemplated in Article 81 of that Constitution would appear to be the competent authority to consider such questions; but under Article 83 of the Constitution that Court can only be convoked by Royal Iradah, to be issued with the concurrence of the Iraqi Council of Ministers. "

Since, according to the mandatory Power's reply reproduced above, the case dealt with in the British Oil Development Company's petition is capable of being judged by an Iraq Court, it must be concluded that, in accordance with the rules of procedure in force, the Commission is not competent to examine the substance of the petitions in question.

I therefore have the honour to propose to the Commission the adoption of the following conclusion:

" In view of the British Government's communication dated June 4th, 1931, from which it appears that the case dealt with in the British Oil Development Company's petition is capable of being brought before the Iraq Courts, the Commission considers that it is not competent to examine the petition in question on behalf of the Council. "

C.P.M.1136.

ANNEX 6.

IRAQ.

LETTER FROM THE BRITISH GOVERNMENT.

DATED JANUARY 12TH, 1931, TRANSMITTING THE REPORT OF THE SPECIAL COMMITTEE APPOINTED BY THE GOVERNMENT OF IRAQ TO EXAMINE THE CLAIM [2] OF THE BAHAI SPIRITUAL ASSEMBLY BAGHDAD, AND COMMUNICATING THE MEASURES TAKEN BY THE GOVERNMENT OF IRAQ IN EXECUTION OF THE RECOMMENDATIONS CONTAINED IN THE REPORT.

London, January 12th, 1931.

With reference to the last paragraph of your letter No. 6A/9245/516 of March 25th, 1929, in which you brought to the knowledge of His Majesty's Government in the United Kingdom the conclusions reached by the Council of the League of Nations in regard to a position from the Bahai

[1] See above-mentioned document C.P.M.1182.

[2] See document C.P.M.784.

Spiritual Assembly of Baghdad, I am directed by Mr. Secretary Henderson to inform you that these conclusions have received the most careful consideration by the Government of Iraq.

2. The Government of Iraq finally decided to set up a special Committee under the Chairmanship of Mr. G. Alexander, President of the Iraqi Court of Appeal, to consider the views expressed by the Bahai community in respect of certain houses in Baghdad and to formulate recommendations for an equitable settlement of this question. I am now to transmit to you the accompanying translation of the report submitted by this Committee to the Iraqi Government on August 27th, 1930, and to request that it may be communicated to the members of the Permanent Mandates Commission for their information.

3. I am to ask that the members of the Permanent Mandates Commission may at the same time be informed that the Iraqi Government have decided to accept the recommendations contained in the report, which have also been accepted in principle on behalf of the Bahai community, and have directed that detailed plans and estimates shall be prepared, with a view to carrying these recommendations into effect during the coming financial year.

(Signed) C. W. Baxter.

Translation of Report on the Bahai Case.

In accordance with the Secretary to the Council of Ministers' letter No. 2003 dated July 12th, 1930, addressed to the Ministries of the Interior and Justice, stating that we were appointed to form a Special Committee to consider the case of the claim of the Bahai Community relating to certain houses in Baghdad and to examine the " method " which the Government should adopt for dealing with (or remedying) this question, we have held three meetings—on July 28th, 1930, August 25th, 1930, and August 27th, 1930—and, having gone through the proceedings of the Permanent Mandates Commission of the League of Nations and previous papers on the case and a note by the Chairman of our Committee notifying that the Prime Minister has authorised him to inform the Committee that the object of its formation was to find out what measures can be adopted to constitute a suitable solution of the Bahai case referred to above, having regard to existing circumstances and conditions, and after careful discussion and deliberation on the subject, we have resolved as follows:

1. The competent courts have already considered the dispute over the houses in question which arose between two Bahai individuals by the name of Muhammad Hasan and Nuri, heirs of Bahaullah, of one part, and Muhammad Jawad and Bibi, two Shias, of the other part, and issued final judgment to the effect that the first party had no right to the said houses. Therefore it is neither possible nor justifiable to consider the case from the aspect of the claim of the first party to the ownership of the houses.

2. If there be any justification at all to consider this case, it can only be on the ground of State interests and policy. On this assumption and having regard to the principles of the laws in force in this country and to present conditions and circumstances, only one course of action is possible—namely, that of appropriating the houses for purposes of public benefit by means of expropriation for such purpose of public benefit.

3. Such expropriation may be carried out either for the public benefit of the Government or for that of the municipality. As, however, the case regarding the houses has a " past reputation " (*sic*) arising from the fact that it had arisen between two parties of different creeds, and that their expropriation now is likely to be taken as a pretext for taking away the houses from those in whose possession they are at present, who belong to a special creed, and as such will give rise to public agitation among the followers of that creed, and in order to avert such risk, the operation of expropriation should be an extensive one and should cover the said houses together with other surrounding houses and properties in order to give out that the purpose is one of public benefit. Assuming that appropriation is to take place, we suggest that the operation of expropriation should be extensive so as to cover the properties surrounding the houses in question for the opening of a road or the laying out of a garden if expropriation is to be made for a municipal purpose, or for a hospital (or dispensary) or a school, to be built in the middle of a square, if the expropriation is to be on behalf of and for the Government.

It should be observed that the state of the houses at Shaikh Bashshar quarter is such as will justify Government action in opening a wide square adequate for laying out a garden, or especially a play-ground for children and a promenade ground for women. The success of the children's play-ground and women's recreation ground at North Gate furnishes the strongest proof that such a project of public benefit is essential.

As houses in Baghdad West are crowded and in a bad state and there is no play-ground for children, it appears to us that the Government will be perfectly in the right in expropriating a number of the houses surrounding the Bahai houses and in the laying out of a public garden (park). If necessary, these (? the Bahai) houses may be used for the construction of a special dispensary for women and children.

The existing dispensary to the north near Parliament House is common for both sexes. If the Bahai houses are used for a dispensary for children and women, such dispensary will be centrally situated among the crowded quarters and not on their extremity. As such, it should prove very useful for the inhabitants.

4. As will be plainly observed from the above details, the scheme will have to take financial conditions into consideration, as it will require a large provision of money. Also political considerations should be attended to, since religious feelings may be involved.

Therefore, and as the Council of Ministers are more competent to appreciate these circumstances, we leave it to them to consider what is advisable in the circumstances.

Dated August 27th, 1930.

(Signed) G. Alexander.
Nasrat al Farisi.
Subhi al Daftari.
Nashat as Sinawi.

ANNEX 7a.

C.P.M.1160(1).

PETITIONS REJECTED IN VIRTUE OF ARTICLE 3 OF THE RULES OF PROCEDURE.

REPORT BY THE CHAIRMAN.

In accordance with Article 3 of the Rules of Procedure, I have the honour to submit the following report on the petitions received since our last ordinary session which I did not think required the Commission's attention.

I. Syria and Lebanon.

1. (*a*) Letter from the Emir Chékib Arslan, M. Ihsan el Djabri and M. Riad el Soulh, dated June 18th, 1930, and

(*b*) Letter from M. Ihsan el Djabri, dated June 28th, 1930.

These communications, copies of which, if I am not mistaken, were handed direct to members of the Commission at the time, set out certain arguments regarding the conditions under which the Organic Statute of Syria and the Lebanon was promulgated and the intentions which seemed to be implied by the mandatory Power's attitude in this matter.

These petitions reached me at the end of our eighteenth session. As their object was to furnish the Commission with information with a view to the preparation of its report to the Council, I did not think it necessary to forward them for observations to the mandatory Power concerned, which would not have received them until after the close of our session.

2. Telegram dated Cairo, June 27th, 1930, from the Secretary-General of the Executive Committee of the Syro-Palestinian Congress.

As the object of this communication was to protest in general terms against the dissolution of the Syrian Constituent Assembly, against the promulgation of the Organic Statute in Syria and the Lebanon, I did not feel that it need detain the Commission's attention.

3. Communication dated February 17th, 1931, from the Congress of "Las Asociaciones Siro-Arabes pro Independencia", Buenos Aires.

This petition protests against the French mandate in Syria and Lebanon, and puts forward a programme for the settlement of the Arab problem. As its object is incompatible with the provisions of the Covenant and the mandate, I felt that it could not be regarded as a receivable petition according to the normal procedure.

4. Petition of May 22nd, 1931, from M. Houbron.

The author of this communication complains that a sum of £1,000 in gold collected by the authorities of Damascus in February 1926, has not been paid to him, although he was the sole victim of the outrage which was the occasion for the collection of this fine.

In view of the fact that the petitioner was residing at the time in Syria as a soldier in the troops of the mandatory Power, the object of his request is, strictly speaking, outside the competence of the Commission.

II. Tanganyika.

Communications from the "Committee of German Women to contend against the War Guilt Lie" and the "German Women's Fighting League", dated Berlin, January 13th and 14th, 1931, respectively.

Both these documents concern the scheme for closer union between the mandated territory of Tanganyika and the two British Colonies of Kenya and Uganda, and the concession to Germany of a mandate for one of her former colonies.

With regard to the first point, I feel that the Commission cannot discuss the intentions attributed to the mandatory Power by the petitioners, seeing that the measures with which they are concerned are still under consideration, and the mandatory Power has not yet come to any decision in the matter.

The second point—the concession of a mandate to Germany—is definitely outside the Commission's province.

I therefore felt that these communications could not be regarded as receivable.

III. Western Samoa.

Petitions dated October 6th and 8th, 1930, from Mr. E. W. Gurr and Mr. W. Cooper, of Auckland, New Zealand.

The authors of these communications ask the Council to review the political status of Western Samoa, and in particular to change the mandate for this territory from a C to an A mandate.

As the object of this petition is not connected with the administration of Western Samoa according to the terms of the Covenant and the mandate, I did not think it could be regarded as receivable.

IV. Iraq.

Petition of April 30th, 1931, from Mr. Matthew Cope, Hasetché, Syria.

Mr. Matthew Cope complains of his expulsion from Iraq. This petition merely reproduces the substance of a petition submitted to me previously and which was communicated to the mandatory Power for observations. It cannot be regarded as receivable within the terms of Article 1, paragraph *c*, of the Rules of Procedure in force in regard to mandate petitions.

ANNEX 7 b.

C.P.M.1166.

PALESTINE.

VARIOUS COMMUNICATIONS.

Note by the Chairman.

During our seventeenth and nineteenth sessions in June and November 1930, I had the honour to submit to my colleagues lists of a large number of communications on the subject of Palestine—telegrams and letters from various sources submitted to me by the Secretariat in accordance with the rules laid down by the Council. These communications, mostly couched in vague and general terms, concerned the events in Palestine in 1929 and the measures subsequently taken by the mandatory Power.

The lists in question, a copy of which I forwarded at the time to the British Government for its information, have been added as an annex to the Minutes of the seventeenth and nineteenth sessions.

The Secretariat has continued to receive a large number of communications of this nature, the most recent of which are protests against the British Government's declaration of its policy in Palestine made in October 1930.

My colleagues will find below the list of these fresh communications, of which I am at the same time forwarding a copy to the British Government for its information.

Munshi Mujahid Khan Zanidar, Kharkapura Khandwa C.P., India; letter, May 21st, 1930.
Tayebbhai-Mulla-Mohomedally-Maskati, Begumpura, Bhajiwali Pole, Surat, India; letter, May 22nd, 1930.
Mr. M. E. Captain, Honorary Secretary, "Anjumane Shaukatul Islam and Khilafat Committee", Tankaria, India; communication received June 7th, 1930.
M. Arie Lewin, Rakow; letter, September 29th, 1930.
M. Michael Alper, New York; letter, October 22nd, 1930.
M. Nathan Essell, New York; letter, October 23rd, 1930.
M. Jacobson, Jewish Community, Halifax; telegram, October 24th, 1930.
M. Nathan Gesang, President, and David Groisman, Secretary of the General Committee of Argentine Jewry, Buenos Aires; telegram, October 28th, 1930.
The Secretary of the "Union universelle de la jeunesse juive", Paris Section; communications dated September 15th, 1929, and October 30th, 1930.

M. Cohen, President of the Jewish Community of Sofia; telegram, October 30th, 1930.
The President of the Committee of the Zionist Association " Arsenou ", Salonica; letter, October 30th, 1930.
Assembly of the Jews of Cairo; telegram, November 1st, 1930.
M. Bernard Tamen, President of the Zionist Organisation, Mexico; telegram, November 1st, 1930.
M. Tschammer Rasslan, Berlin; telegram, November 2nd, 1930.
Union of the Jewish Communities of Greece, Salonica; telegram, November 3rd, 1930.
M. A. Mallah, President of the Zionist Federation of Greece, Salonica; letters, October 26th and November 3rd, 1930.
M. Bernhardt, President of the Zionist Organisation of Roumania, Bucarest; letter, November 3rd, 1930.
President of the Zionist Organisation of Bucovina, Cernauti; letter, November 3rd, 1930.
M. Moses I. Azancot, " Keren Kayémeth Le-Israël ", Tangier; letter, November 4th, 1930.
President of the Committee of the Organisation Misrachi of Greece, Salonica; letter, November 5th, 1930.
Rabbi Samuel Wohl, President of " Palestine Emergency Council ", Cincinnati; letter November 5th, 1930.
Mrs. R. E. Toeg, President of the Zionist Association of Shanghai; letter, November 5th, 1930.
Secretary-General of the Association of the Zionist Revisionists, Salonica; letter, November 6th, 1930.
Dr. Eppstein, President of the " Commision Emergencias ", Havana; telegram, November 8th, 1930.
President of the Israelite Assembly of Vidine, letter, November 8th, 1930.
M. H. Stier, Cernauti; communications, October 22nd, and November 9th, 1930.
President of the Zionist Organisation of Sofia; letter, November 9th, 1930.
M. Kobrin and M. Berland, Montevideo; telegram, November 10th, 1930.
M. A. Jossischoff, President of the Israelite Agency, Plevna; letter, November 10th, 1930.
M. Ab. P. Alter, Zoppot; letter, November 10th, 1930.
South African Moslem Conference, Johannesburg; telegram, November 10th, 1930.
" Collectivité israélite " of La Paz; telegram, November 11th, 1930.
M. Moissis, President of the Communal Assembly, Israelite Community, Salonica; letter, November 11th, 1930.
M. David O. Kurliand, Secretary-General of the " Union Zionista de Cuba "; letter, November 11th, 1930.
M. Félix Green, President of the Zionist Organisation, Alexandrie; telegram and letter, November 2nd and 12th, 1930.
M. Rosenfeld, Zionist Federation of Luxemburg; letter, November 13th, 1930.
M. Chalom, President of the Israelites of Varna, telegram, November 16th, 1930.
Dr. B. Knöpfler, Union of Zionist Revisionists, Cluj; letter, November 17th, 1930.
M. S. H. Markowitz, Rabbi, Fort Wayne, Indiana; letter, November 18th, 1930.
M. Alfred Cohen, President of the " Bnai Brith Jewish International Fraternity ", Cincinnati; telegram, November 20th, 1930.
M. de Donder, Secretary of the " Comité Belgique-Palestine ", Brussels; letter, November 26th, 1930.
M. Jafar el Askari, President of the Iraq Chamber of Deputies, Bagdad; telegram, November 29th, 1930.
M. Altmann, Bureau of the Jewish Community of Katowitz; letter, December 1st, 1930.
Young Moslem Society, Mosul; telegram, December 3rd, 1930.
M. Nicolas Hirmas, President of the " Sociedad Juventud Palestina ", Santiago de Chile; letter, January 3rd, 1931.
M. Omar El Djabry, Secretary of the Association of Arab Students, Toulouse; letter, April 2nd, 1931.
" Centro Arabe de Conception ", telegram, June 16th, 1931.

ANNEX 8.

C.P.M. 1208(1).

IRAQ.

PETITIONS DATED SEPTEMBER 23RD AND DECEMBER 9TH, 1930, FROM CAPTAIN HORMUZD RASSAM. [1]

REPORT BY M. ORTS.

I.

My colleagues will recollect that, at its November 1930 session, the Mandates Commission already considered the preliminary question as to whether Captain Hormuzd Rassam's petition of September 23rd, 1930, relating to the situation of the non-Moslem minorities in Iraq could be accepted, and resolved on November 8th 1930, to forward the petition to the mandatory Power in view of the allegations which it contained regarding the present situation of non-Moslem

[1] See documents C.P.M.1108, C.P.M.1108(*a*) and C.P.M.1156.

minorities in Iraq. This first petition was followed by a further communication from Captain Rassam, dated December 9th, 1930, which was similarly forwarded to the mandatory Power. In a letter of May 6th, 1931, the British Government forwarded a memorandum containing its observations on these two petitions.

The petition in question, as well as the British Government's observations, are too lengthy to permit of detailed analysis being made here. I shall therefore merely indicate briefly the subjects dealt with.

The petitions are submitted on behalf of the Christian and non-Moslem minorities in Iraq with a view to obtaining the assistance of the League for securing a " permanent solution of the question of the settlement of Christian and other non-Moslem minorities in Iraq before the mandatory Powers is released from its mandate ". The petitioner annexed to his petition a large number of letters, some of them from notabilities religious as well as lay, residing in Iraq, and apparently qualified to speak on behalf of religious or racial groups.

The petitioner points out that in present circumstances non-Moslem minorities can appeal to a Christian Power to protect them against the oppression of the Moslem authorities, but, once Great Britain has been released from its mandate, the said minorities will be entirely at the mercy of an Arab Government. This possibility with the perils it appears to involve justifies the Christian minorities appealing to the Mandates Commission in order that the League Council may take steps to protect the said minorities, before Iraq is finally emancipated and admitted to the League of Nations.

The petitioner proposes that a special Commission of Enquiry should be sent to Iraq to report to the League Council on the situation described in the petition.

With regard to the settlement of Christian refugees, while recognising that the mandatory Power has made considerable efforts in this direction, the petitioner suggests that the problem should be entrusted to the League's High Commission for Refugees, to be solved by the method which has proved successful elsewhere.

The petitioner claims to be authorised to speak on behalf of the Christians comprising the " Assyro-Chaldean " nation, which, in Iraq, includes the following Christian communities: Assyrians, Chaldeans, Jacobites, Protestants, Syrian Catholics, Armenian refugees and the Yezidi. He points out that it is the duty of the mandatory Power to ensure, in accordance with the Mandate, freedom of conscience and the free exercise of all forms of religion, and to protect the minorities. Furthermore, in accordance with the suggestions of the Mosul Commission set up by the Council resolution of September 30th, 1924, Great Britain admitted that it was its duty to secure the settlement of Assyrian Christians in accordance with the reasonable claims and aspirations of their race. By reason, however, of the Arab Government's influence, the mandatory Power has found it impossible to guarantee adequate protection to that minority. He contends, further, that the mandatory Power, in spite of the recommendations of the Mosul Commission and the corresponding Council resolutions, has failed to take advantage of the conclusion of the Anglo-Iraqi Treaty of June 30th, 1930, to ensure, as it was bound to do, the protection of the non-Moslem minorities in Iraq and the Christian refugees from Turkey.

The writer justifies the despatch of his petition to the Mandates Commission by the fear of reprisals on the part of the authorities of the country against Christians who make complaints. He reproaches both the mandatory Power and the Iraq Government with the material and physical impoverishment of the Assyrians due to their settlement in the worst districts of the Mosul vilayet and to lack of any assistance, financial or otherwise, from the Government; the failure to settle Assyrians on lands where they could live without interference from Moslems, a point on which the mandatory Power has not kept its promises; the denial of local autonomy to Assyrians in spite of the recommendations of the so-called " Mosul " Commission of the League of Nations; the curtailment of religious freedom and refusal to open schools as recommended by the said Commission; insecurity of life and property; inadequate representation of minorities in the Government, administration and courts of law; failure to supply any substitute for the previously existing right of Christians to appeal to foreign consuls for protection, and, finally, the general regime of persecution and oppression from which the Christian minority is suffering.

In conclusion, the petitioner renews his request that the Permanent Mandates Commission should advise the Council of the League of Nations, before the expiry of the Iraq mandate, to set up a special Commission of Enquiry to determine to what extent the recommendations of the Mosul Commission have been carried out.

II.

In its observations the British Government has replied to all the points raised in the petitions. It refers to the information on minorities contained in the Special Report on the Progress of Iraq during the Period 1920–1931. Further, the accredited representatives of His Majesty's Government gave the Commission additional particulars during its present session.

The Commission will, I feel sure, be grateful to the British Government for the great care with which it has considered these petitions.

As regards the general question, the mandatory Power states that, until the publication of the terms of the Treaty of Alliance of 1930, no representation had been made to the High Commissioner in Iraq or to the British Government that the minorities were dissatisfied with their

present position. Instances have, it is true, occurred of representations having been made on specific points and in individual cases; but, until the petitioner arrived in Iraq in January 1930 and during the five months that he remained in the country, there was no reason to believe that the minorities, whose situation is sufficiently guaranteed by the Iraq Constitution, were in general dissatisfied. It was not until the terms of the Anglo-Iraqi Treaty were published and it was seen that no special provision was made in it for the protection of the minorities concerned after the admission of Iraq to membership of the League, that a campaign was organised with the intention of bringing pressure to bear in order to ensure that the League should consider the minorities question before agreeing to the termination of the mandate in Iraq. In the British Government's opinion the documents submitted by the petitioner were not spontaneously produced, nor were they prompted by any real dissatisfaction of the minorities concerned but were deliberately collected. However, it recognises that, as soon as the Treaty of Alliance became known, representations were made by the most important Christian communities with a view to some guarantees being given by the Iraq Government to safeguard their future.

Moreover, the British Government points out that though the petitioner was authorised by the Assyrian Patriarch to represent the case of the Assyrians, he has no real claim to represent the other minorities.

The specific points mentioned in the petition are disputed by the British Government in certain cases; in other cases—and these would not appear to be permanent in character or of real gravity—their accuracy is admitted.

III.

On the subject of the petitioner's allegations, the British Government has given explanations which, generally speaking, would appear to give satisfaction as regards both the past and the present. However, I cannot but refer to the general apprehension for their future felt by the minorities. This apprehension is to be observed not only among the non-Moslem minorities, but also among other minorities as appears from certain other petitions with which the Permanent Mandates Commission has had to deal and from the mandatory Government's Special Report on the Progress of Iraq during the Period 1920-1931. It is stated in this document:

> " As soon as it became known that the Treaty of 1930 contained no special provision for the treatment of racial and religious minorities upon the admission of Iraq to membership of the League of Nations, representations were made by the most important of them with a view to some guarantees being given by the Iraqi Government to safeguard their future. "

Account should be taken of this state of mind which is so universal as to lead to the belief that there must be good reasons for its growth.

I accordingly consider that the Commission should suggest to the Council that the mandatory Power's attention be drawn:

1. To the necessity of not relaxing its supervision over the situation of these minorities;
2. To the necessity of obtaining from the Iraqi Government, as regards the treatment of racial and religious minorities and before the termination of the mandate, guarantees which, according to the statement of the mandatory Power already mentioned in the Commission's report on its nineteenth session, the Iraqi Government is prepared to give.

3. Further I consider that the Commission should recommend that the Council inform the petitioner that his petition has been considered and that the League will continue to see that the rights of the minorities are respected and will do so all the more sympathetically if it is convinced of the goodwill of the minorities to promote the security and prosperity of the Iraqi State.

For the rest, I am of opinion that the Commission need not recommend that the Council take any particular action on this petition.

ANNEX 9.

C.P.M.1207(1).

IRAQ.

PETITION, DATED APRIL 20TH, 1931, FROM M. YUSUF MALEK.

Report by M. Orts.

The petition from M. Yusuf Malek, a Chaldean Iraqi, dated April 20th, 1931, was communicated to us by the British Government on June 2nd, 1931.

The petitioner protests in general terms against alleged arbitrary action by the Iraq Government which, he states, took reprisals against him and other persons because they were suspected

---

[1] See document C.P.M.1179.

of having informed Captain Rassam and the League of Nations of the Chaldeo-Assyrian nation's fears for its future. The petitioner complains that after thirteen years' service with the British Government, he was transferred in 1930 by order of the Iraq Minister of the Interior. Not wishing to comply with this order, he resigned, and thus suffered material loss.

The British Government observed that the case of M. Yusuf Malek was dealt with in the observations submitted on May 6th, 1931, regarding Captain Rassam's petition of September 23rd, 1930. It considers that the action taken against the petitioner was justified. The British Adviser to the Iraq Ministry of the Interior was, moreover, consulted, and did not think it advisable to intervene as the case was dealt with in accordance with existing regulations.

This petition does not appear sufficiently important to call for a recommendation by the Commission to the Council.

ANNEX 10.

C.P.M.1198(1).

IRAQ.

PETITIONS[1] EMANATING: (*a*) FROM KURDS OF IRAQ TRANSMITTED BY THE BRITISH GOVERNMENT ON FEBRUARY 20TH, 1931; (*b*) FROM TAWFIQ WAHBI BEG, DATED APRIL 19TH, 1931.

REPORT BY M. RAPPARD.

In accordance with the desires of our Chairman I have the honour to submit to my colleagues the following observations which have occurred to me after reading the various Kurdish petitions which I was instructed to examine and the mandatory Power's comments upon them.

Though the material put before me was very voluminous, my observations will be extremely brief. I consider it unnecessary to give an account, in the course of these remarks, of the contents of all these petitions and of the mandatory Power's comments upon them, as this would entail much useless repetition and as the original documents have all been placed at my colleagues' disposal. I will confine myself therefore to:

1. Giving a list of the Petitions with particulars of date and source;
2. Mentioning the petitioners' principal grievances;
3. Summarising the petitioners' demands;
4. Summarising the observations of the mandatory Power;
5. Submitting to my colleagues certain brief conclusions.

1. *List of Petitions.*

	Letter	Date	Source
Documents C.P.M.1140 and 1151.	A	August 24th, 1930	Chiefs of the Dauda tribe.
	B	August 31st, 1930	Central National Committee of the inhabitants of Southern Kurdistan.
	C	September 7th, 1930	Naqibzadah Hafsah.
	D	October 9th, 1930	Chiefs of the Mariwan and Fatali Begi tribes.
	E	October 9th, 1930	Leading Kurdish Chiefs.
	F	October 9th, 1930	Shaikh Mahmud and thirty Pizhder Chiefs.
	G	October 14th, 1930	Ja'far Sultan and nineteen other Kurdish notables.
Document C.P.M.1192.	H	April 19th, 1931	Tawfiq Wahbi Beg.

2. *Grievances of the Petitioners.*

Although the various petitions examined vary in length, tone and content, they all give expression to the discontent of the Kurdish elements inhabiting Iraq. The petitioners and those whom they champion all deplore in varying degrees the policy which they believe to be that of the Government of Iraq and the mandatory Power—namely, to assimilate them to the rest of the population of the mandated territory.

As the Kurds differ from the inhabitants of the plains in race, language, manner of life and political aspirations, and as they appear to be conscious of a certain community of interests with

---

[1] See documents C.P.M.1140, 1151, 1184, 1192 and 1192(*a*).

the Kurds living outside Iraq, I feel that there can be no doubt that we have to do with ethnical groups having the characteristics of what is usually termed a minority.

Some of the petitioners' complaints are very vague—cruel and ruthless treatment at the hands of the Iraqi authorities—but others are much more precise. Thus several petitions complain that, in spite of assurances to the contrary, the non-Kurdish element among the officials responsible for the administration of their territory is still preponderant. Others complain of the imposition of excessive taxes on their flocks and herds and their crops. Several protest against the fact that the last treaty of alliance between Great Britain and Iraq contains no clause guaranteeing the special rights of the Kurds. Several denounce the intimidation and acts of violence to which the mass of the Kurdish population and, still more, the chiefs are alleged to have been subjected at the time of the elections in Sulaimaniya. Lastly, two petitions couched in almost identical terms complain that complaints sent to the High Commissioner have remained unanswered.

3. *Demands of the Petitioners.*

In addition to the reasons for discontent summarised above, the petitions contain definite demands for the future. These demands, which refer to the political and administrative organisation of that part of Iraq which is inhabited by the Kurds, vary greatly, sometimes irreconcilably.

Some demand the establishment of an independent Kurdish State placed under the protection of the British Mandatory, or of another Mandatory selected by the League. Others demand that this territory should be made an independent State to be governed by Shaikh Mahmud under British protection.

Tawfiq Wahbi Beg, on the other hand, confines himself in his various letters and petitions to demanding a liberal measure of autonomy for the Kurdish part of Iraq.

In addition to these general demands for the future organisation of the Kurdish territory, the petitions contain, *inter alia*, two definite demands, the liberation of persons imprisoned or deported at the time of the Sulaimaniya disturbances and the transfer of all Kurdish officials from the Arab to the Kurdish districts.

4. *Comments of the Mandatory Power.*

The mandatory Power, through whom these various petitions have reached us, has had them examined and minutely analysed. The mandatory Power's attitude to these petitions has been defined in the observations it has appended thereto, [1] in various passages of the report which it issued on the progress of Iraq from 1920-1931, and also in the statements of its accredited representative.

Without going into the details of the various points in dispute, we may note that the mandatory Power is inclined to deny the right which the petitioners claim faithfully to represent the opinions of the mass of the Kurdish population. It denies that the treaties in force contain promises of independence or autonomy to the Kurds. Nor were any such promises made at the time when the mandatory system was established in Iraq. The mandatory Power admits having guaranteed to the Kurds the right to employ their own language and the appointment of Kurdish officials, but it considers that the State of Iraq has already given, or is about to give, effect to these undertakings as far as is compatible with public policy, and denies that there is any general discontent among the Iraqi Kurds. It is entirely confident that, thanks to the moderation and prudence of the Arab majority in Iraq, the rights and position of the Kurdish minority will always be respected, even after the entry of Iraq into the League of Nations as an independent State, a step which it warmly recommends.

5. *Conclusion.*

Since the governmental system of Iraq is probably on the eve of profound modification, it would be useless to attempt to formulate a definite recommendation on each of the demands put forward by the petitioners. The most numerous and the most important of these demands, moreover, are for the establishment of a regime for which neither the Covenant nor the Anglo-Iraqi-Treaties, taking the place of the mandate, provide. These petitions, therefore, are by their very nature inadmissible and call for no comment on the part of the Commission.

As regards those referring to the free use of the Kurdish language, the mandatory Power states that they are about to be satisfied as far as considerations of public policy allow.

My colleagues will have been interested to note the Iraqi Government's resolution, approved by the mandatory Power, on the subject of its attitude to the Kurdish problem.

As the Minister acting as President of the Council of Ministers declared on August 19th, 1930, the Iraqi Government has decided that in future it will meet the Kurdish claims by insisting that its officials, of whatever race, shall be familiar with the Kurdish language, rather than by entrusting the administration of Kurdish districts to Kurdish officials.

In so far as this resolution is the expression of a desire to ease relations between the Kurdish population and the Administration, and to open up the possibility of careers to officials of Kurdish

---

[1] See documents C.P.M.1140, 1151, 1184, 1192 and 1192(*a*).

race in the non-Kurdish territories of the country, the Commission is bound to approve. On the other hand, the Commission could in no sense welcome this policy if, irrespective of its aims, it were to lead in practice to depriving the Kurds of the presence of officials whose attitude would be sympathetic to their legitimate aspirations.

The mandatory Power asserts, on the other hand, that the acts of injustice and violence from which the petitioners and those whose interests they claim to defend are said to have suffered are either imaginary or justified by the culpable behaviour of the victims.

The multiplicity of these various petitions, emanating from the most part from persons whose status it is impossible to ascertain, together with the detailed and convincing explanations of the mandatory Power, places the Commission in an extremely difficult situation. Never have I more keenly felt the weakness of the Mandates Commission's procedure in the matter of petitions than in struggling through this jungle of assertions, denials and explanations.

In the absence of all possibility of conducting an impartial investigation, the Commission is bound to accept the reassuring statements of the mandatory Power. In this case it can do so without hesitation, since the petitioners' complaints have obviously been carefully investigated and since, as they refer much more to the actions of Iraq than of Great Britain, they have been examined by an authority whose responsibility for the alleged abuses would seem to be minimised by the very tact with which it has intervened in administrative affairs.

Should the Commission therefore non-suit the petitioners purely and simply, and declare itself entirely satisfied by the observations of the mandatory Power ? I think not. In spite of the criticisms to which these various petitions may legitimately be subjected, both on account of the uncertain standing of their authors and of the frequently unreliable nature of their contents, no impartial observer can avoid the feeling that the Kurdish question in Iraq is a real one. Even if the discontent of the Kurds were much less deep-seated and general than the petitioners claim, it is obvious that it exists. The mandatory Power has, moreover, never denied it.

If then discontent has never ceased to make itself felt throughout the prolonged period during which Great Britain, despite its tact, nevertheless exercised a real influence in the cause of justice, is it not to be feared that such discontent will become general when the Government of Iraq, left to its own resources, is more exposed both to outbreaks of this discontent, which are always possible, and to the aggressive promptings of the nationalism of its Arab subjects ?

If my colleagues share the opinions at which I have arrived through study of the above-mentioned documents and which I have briefly outlined, they might record this fact by adopting the following draft resolution for submission to the Council:

" The Mandates Commission, having examined the following petitions:

Letter	Date	Source
A	August 24th, 1930	Chiefs of the Dauda tribe,
B	August 31st, 1930	Central National Committee of the Inhabitants of Southern Kurdistan,
C	September 7th, 1930	Naqibzadah Hafsah,
D	October 9th, 1930	Chiefs of the Mariwan and Fatali Begi tribes,
E	October 9th, 1930	Leading Kurdish Chiefs,
F	October 9th, 1930	Shaikh Mahmud and thirty Pizhder Chiefs,
G	October 14th,1930	Ja'far Sultan and nineteen other Kurdish notables,
H	April 19th, 1931	Tawfiq Wahbi Beg,

emanating from various Kurdish personages and groups in Iraq, together with the observations which the mandatory Power has been good enough to make on this subject, has the honour to recommend the Council:

" 1. To thank the mandatory Power for the care with which it has carried out its enquiries on the spot and prepared its observations arising out of these various petitions;

" 2. To request the mandatory Power to impress upon the Government of Iraq that it should be guided, in its dealings with its Kurdish subjects, by a spirit of broad toleration towards a minority worthy of respect, whose loyalty will grow in proportion as it is freed from all fear of danger to its natural rights, as explicitly recognised by the mandatory Power and the League of Nations;

" 3. To inform the petitioners that the League of Nations will continue to ensure that their rights are respected; it will do so with the greater zeal and sympathy if it is convinced that the Kurds are loyally contributing to the security and prosperity of the State of Iraq;

" 4. To give close attention to the uneasiness undoubtedly prevalent among the Kurdish population and which is caused by uncertainty as to the fate which awaits them if the moral protection of Great Britain, of which they have had the benefit for more than ten years is to be withdrawn. "

ANNEX 11.

C.P.M.1190.

PALESTINE.

MEMORANDUM,[1] OF DECEMBER 1930, FROM THE ARAB EXECUTIVE COMMITTEE ON THE BRITISH GOVERNMENT'S STATEMENT OF OCTOBER 1930 (Cmd.3692).

REPORT BY M. PALACIOS.

In a letter dated May 11th, 1931, the British Government forwarded to the Commission a memorandum, dated December 30th, 1930, from the Arab Executive Committee relating to the statement published in the White Paper of October 1930. This memorandum was accompanied by the observations of the mandatory Power.

In his covering letter, the President of the Arab Executive Committee begins by putting forward claims incompatible with the terms of the mandate for Palestine (abrogation of the Balfour Declaration and the mandate as being contradictory to the pledges given to the Arabs, and to Article 22 of the Covenant, and as being in violation of the natural and national rights of the Arabs). He then demands the establishment of a Government responsible to an elected representative Council. He further asserts that it is the British Government's duty to prohibit at once the transfer to non-Arabs of Arab lands, and to stop immigration definitely. Finally, he emphasises the necessity for promoting the welfare of the fellahin, especially such of them as were dispossessed by the Jews, and urges that this class of the fellahin should be given land, especially in the Huleh area, should the concessionaire fail to carry out the terms of the concession.

The British Government points out that the memorandum was written before the issue of the British Prime Minister's letter to Dr. Weizmann, dated February 13th, 1931, and that it does not therefore take account of the interpretations and explanations given of certain matters dealt with in the statement of October 1930.

The Arab memorandum itself, to which the British Government replies point by point, though without going into detail, deals with the following questions: the interpretation given by the British Government to the expression " Jewish National Home ", the right of the Arabs to the establishment of a national Government, and, finally, economic and social problems, including the immigration and land problems.

In the Arab memorandum the contention is made that the British interpretation given in 1922 goes beyond the Balfour Declaration, inasmuch as it contemplates the facilitation by the British Government of the further development, and not merely the establishment, of the Jewish National Home. The memorandum deals with the safeguarding by the Mandatory of the interests and rights of the two sections of the population—Jews and Arabs—and with the development of self-governing institutions for the Arabs.

The British Government states that it is unable to find in this part of the memorandum any grounds for amending the interpretation given in its statement of 1922 and reaffirmed in paragraph 6 of the statement made in October 1930.

As regards the constitutional demands, the British Government likewise states that it is unable to find in the memorandum any ground for modifying its policy as set out in paragraphs 11 and 12 of the 1930 statement.

In relation to the land question, the memorandum refers, *inter alia*, to the meaning to be attached to the words " rights and position of others sections of the population ", occurring in Article 6 of the Palestine mandate. In reply, the British Government refers to paragraph 7 of the British Prime Minister's letter to Dr. Weizmann, dated February 13th, 1931. With regard to the distribution of land, the mandatory Power refers to Sir John Hope Simpson's report and observes that steps have already been taken to secure the settlement of Arabs on the only State lands available.

Dealing with the demands for an improvement in the machinery for the control of immigration, the British Government refers to paragraphs 14 to 17 of the letter to Dr. Weizmann, and to the British statement of 1930.

Inasmuch as the various questions raised by the petition are intimately linked with the subjects dealt with by the Mandates Commission during its examination of the annual reports on Palestine, I am of opinion that, apart from the force of some of the petitioners' arguments and the interest they present, it is superfluous to make them the subject of a special examination separate from that in which the Commission is already engaged.

[1] See document 1169.

ANNEX 12.

C.P.M.1193.

PALESTINE.

MEMORANDUM, DATED APRIL 30TH, 1931, SUBMITTED BY THE JEWISH AGENCY ON THE DEVELOPMENT OF THE JEWISH NATIONAL HOME IN PALESTINE IN 1930.

REPORT BY M. RUPPEL.

The mandatory Power has by a letter dated June 4th, 1931, transmitted to the Permanent Mandates Commission a letter of the President of the Jewish Agency of April 30th, 1931, to the High Commissioner for Palestine, and a Memorandum by the same Agency on the Development of the Jewish National Home in Palestine in the year 1930.[1]

This Memorandum gives as usual a detailed account of the activities of the Zionist Organisation and of the Jewish Community of Palestine, dealing in nine sections with the population and vital statistics, immigration and the labour market, agricultural colonisation, urban development, industry, public health, education, organisation of the Jewish community, finance.

It appears that during the period under review, notwithstanding the abnormal character of Palestine conditions to which the Memorandum draws attention, further progress has been made in the development of the Jewish National Home.

In his covering letter to the Memorandum, the President of the Jewish Agency refers to the attitude taken by the Agency in regard to the mission of Sir John Hope Simpson, the statement of policy issued by the British Government in October 1930, and the letter of the British Prime Minister to Dr. Weizmann of February 13th, 1931. To the letter of the Agency, the following documents emanating from persons connected with the Zionist Organisation are attached:

1. A Memorandum on Palestine Land Settlement, Urban Development and Immigration, in which the information, supplied to Sir John Hope Simpson during his stay in Palestine, has been summarised;
2. A Memorandum on the Statistical Bases of Sir John Hope Simpson's report on Immigration, Land Settlement and Development in Palestine, in which the data on which this report has based its main conclusions are analysed;
3. A Memorandum on the Palestine White Paper of October 1930, by Leonard Stein, in which the objections of the Jewish Agency on the White Paper are placed on record;
4. A Statement issued by Dr. Weizmann on February 13th, 1931, in which he expressed his personal opinion on the Prime Minister's letter of the same date.

The British Government further communicated to the Permanent Mandates Commission, by letter dated June 10th, 1931 [2], a memorandum containing their observations upon the Jewish Agency's memorandum. After having made a general reservation regarding the figures, statements or opinions contained or expressed in the latter, which they had not been able to examine in detail, the British Government refer, in regard to certain matters (suspension of part of the immigration certificates for the half-year May-October 1930, Jewish unemployment figures, employment of Jews on public works), to their own corresponding statements made in the annual report, to the White Paper of October 1930 and to the Prime Minister's letter to Dr. Weizmann, of February 13th, 1931.

Neither the memorandum of the Jewish Agency nor the observations of the mandatory Power seem to give occasion for a recommendation to the Council.

ANNEX 13.

C.P.M.1203.

SYRIA AND THE LEBANON.

PETITION, DATED JUNE 9TH, 1930, FROM M. SAADEDDINE JABRI, M. EDMOND RABBATH, AND M. NAZEM EL KODZI OF ALEPPO, AND PETITION, DATED JUNE 16TH, 1930, FROM 184 INHABITANTS OF DAMASCUS.[3]

REPORT BY M. SAKENOBE.

In the first petition the petitioners strongly protest against the promulgation of the Organic Law, Article 116 of which they refuse to recognise. Then, stating how they suffer under the

[1] See document C.P.M.1178.
[2] See document C.P.M.1187.
[3] See document C.P.M.1174.

mandatory regime, they request that the League of Nations should appoint a Commission of Enquiry to examine the state of affairs in Syria.

The second petition is merely a repetition of the telegram of Jamil Mordam Bey, dated June 11th, 1930, protesting against the promulgation of the Organic Law, which was addressed to M. Ponsot and was brought to the notice of the Permanent Mandates Commission at its eighteenth session. M. Ponsot made special comment on this telegram (see Minutes, page 125).

The Mandatory Government, in its letter dated June 4th, 1931, with which it transmitted the petitions, observes that, as the one is supporting the petition transmitted by the High Commissioner to the Mandates Commission at its eighteenth session, and the other deals with the same subject, no observation is called for, save that which was given by the High Commissioner at the eighteenth session of the Permanent Mandates Commission, in connection with the elaboration and promulgation of the Organic Law in Syria.

The Permanent Mandates Commission at its eighteenth session, with the assistance of M. Ponsot, examined at length, and satisfied itself as to, the circumstances in which the Organic Law of Syria was enacted, and addressed its observations to the Council of the League of Nations (see Minutes, pages 120-128).

I think, therefore, that no action is required on these petitions.

ANNEX 14.

C.P.M.1204.

SYRIA AND THE LEBANON.

PETITION[1], DATED MAY 7TH, 1929, FROM M. AHMED MOUKTAR EL KABBANI AND TWENTY OTHER SIGNATORIES.

REPORT BY M. SAKENOBE.

This petition is dated May 7th, 1929, and is signed by Ahmed Mouktar and twenty other pensioners.

The petitioners, who were apparently pensioners in the Lebanon under the Turkish regime and who are now paid by the Lebanese Government, complain that they have sustained loss through being paid in Lebano-Syrian paper money fixed at an inadequate rate, and demand redress for the wrong they have so sustained, and that payment should be made in Turkish gold pounds.

The Mandatory Government, in its letter dated June 4th, 1931, with which it transmitted the petition, observes that this is a case for the application of the Pension Law, duly passed by both Chambers and promulgated (October 30th, 1927) by the President of the Republic of the Lebanon.

The mandatory Power further observes that the petitioners, although they did suffer, like all officials of the Administration, from the depreciation of the currency were nevertheless better treated by the Law than the officials in active service and the post-war pensioners, owing to the fact that their pensions are converted into Lebano-Syrian money at the rate of 70 piastres per Turkish pound, while the post-war pensions and the salaries of all officials in active service are converted at the rate of only 55 piastres, and that ample allowance has thus been given to them in consideration of the higher cost of living.

It is further stated that, from the legal point of view, the pension for services under the Turkish regime does not constitute a debt for mandated territories, there being no mention of such an obligation in the Treaty of Lausanne, and that Article 19 of the mandate, to which the petitioners refer, does not apply in this case, as it concerns only the financial obligations assumed during the period of the mandate and the guarantee thereof on the termination of the mandate.

In these circumstances, it seems to me that the petitioners' claim cannot be entertained, and I propose that the Permanent Mandates Commission should take no action in the matter, and that the petitioners should be informed accordingly.

---

[1] See document 1175.

ANNEX 15.

C.P.M.1194.

PALESTINE AND SYRIA.

PETITION[1], DATED DECEMBER 12TH, 1930, FROM MRS. EVELYN EVANS, LONDON.

REPORT BY M. RUPPEL.

I. The substance of the complicated case brought by the petitioner before the Permanent Mandates Commission is in short as follows:

The Syria Ottoman Railway Company was granted in the year 1891 by the Turkish Government a concession for the construction and working of a railway from Akka to Damascus.

In 1902 the Company sold the Concession back to the Turkish Government. The price of £155,000 was paid to the Company. The Agreement was sanctioned by the Supreme Court of England.

In 1904 an Order was made by an English Court for the compulsory liquidation of the Company in England.

A series of legal proceedings took place before English Courts in connection with this affair.

A certain John Pilling, of whom the petitioner is the executrix, was one of the founders and principal shareholders and also a secured creditor of the Company.

Pilling protested against the surrender of the concession to the Turkish Government and the liquidation in England of the Company, which in his opinion was an Ottoman Company, as illegal, and considered both actions invalid, alleging irregularities committed by the English Courts and by the Administrators of the Company.

Pilling having been declared bankrupt in 1904 his trustee received out of the price paid by the Turkish Government a sum of about £42,000.

The Turkish Courts subsequently refused to recognise the validity of the Order for the liquidation of the Company in England, and in 1908 the winding-up of the Company was ordered by a Court in Constantinople. Pilling was later on appointed liquidator.

The liquidation in Turkey was still going on at the outbreak of the war and was then interrupted. Pilling died in 1919.

The petitioner claims that the Railway concession is still the property of the Syria Ottoman Railway Company and that this Company is still existing.

The demand of the petitioner is held in very general terms and runs as follows:

> " That the League of Nations by its Mandates Commission or such other body or tribunal as may be deemed expedient: shou'd examine the matter set forth in the petition, and make such representations or otherwise take such steps as may be fitting. "

II. The petition has been transmitted for observations to the British and French Government, because it deals with a matter concerning both Palestine and Syria.

III. The British Government in its observations dated April 29th, 1931, [2] informed the Commission that the matter had been thoroughly examined by them on several occasions in the past, when attempts had been made to induce them to make the case the basis of a claim, first against the Turkish Government and subsequently against the French Government as Mandatory for Syria, and that they had persistently refused to take up the claim. As to the reasons for doing so, the observations refer to a letter addressed by the Foreign Office on May 29th, 1922, to the solicitors acting for the claimants, of which a copy forms an annex to the said observations.

From the letter appears the fact, not mentioned in the petition, that the Concession was already forfeited in 1898, because the work of construction was far from being completed at the end of the already extended period fixed in the Concession. The British Government further pointed out that all the parties to the legal proceedings in England were British subjects and therefore bound by those proceedings, and that, the allegation being that a Turkish Company had been wrongfully deprived of its concession by the Turkish Government, the matter would appear to be one for proceedings in a Turkish Court. It was also set out that the British Government was unable to perceive that the claim possessed any merits whatever, the conduct of the Turkish Government having been perfectly proper throughout.

At the meeting of the Permanent Mandates Commission, held on June 16th, 1931, the accredited representative of the British Government was asked to amplify the observations transmitted by his Government. His attention was drawn to the fact that the letter attached to the observations was written before the conclusion of the Treaty of Lausanne, which contains special clauses regarding concessions in territories detached from Turkey under this treaty. Asked whether the

[1] See document C.P.M.1141.
[2] See document C.P.M.1152.

British Government as mandatory Power for Palestine recognised the validity of any claim whatever which the Syria Ottoman Railway Company or the petitioner might make against the mandated territory of Palestine or the Mandatory with regard to the Turkish Railway concession, the accredited representative answered in the negative. He declared further that it would be open for the petitioner to take legal proceedings in the matter in the Courts of Palestine.

IV. The French Government answered by a letter dated June 1st, 1931. [1] It is stated therein that the French Government could not make other observations than those brought forward by the British Government, which had been communicated to them by that Government. From the above-mentioned letter of the British Foreign Office (May 22nd, 1922) the conclusion is drawn that the concession had become invalid through the non-execution of the work in due time and the payment by the Turkish Government to the concessionnaires of the sum of £155,000 for the renunciation of all rights whatever.

One is entitled to presume that the French Government would give, as regards Syria, the same answer as the British accredited representative has given to the questions put to him as to the validity of the claim made by the petitioner and her right to bring the matter before a legal court.

V. It has been stated under I that the demand of the petitioner is formulated in very general terms. She carefully avoids defining the nature of her claim (restoration of the concession or compensation) and indicating the Government which, in her opinion, would be liable for the satisfaction of her claim. Obviously the Mandates Commission has nothing to do with the Turkish Government which has granted the concession. The British and French Governments, on behalf of the Mandated territories of Palestine and Syria, in which a railway line from Akka to Damascus would have to be constructed now, do not recognise any claim whatever on the part of the petitioner.

As, on the other hand, the matter which forms the subject of the petition might be laid by the petitioner before some court of law, the Commission is prevented, by the general rules governing its practice in regard to petitions, from examining the merits of the case.

I therefore recommend to the Commission not to consider the petition, on the ground that it concerns a dispute with which the courts have competence to deal.

ANNEX 16.

I.

REPORT TO THE COUNCIL ON THE WORK OF THE SESSION.

The Permanent Mandates Commission met at Geneva from June 9th to June 27th, 1931, for its twentieth session, and held twenty-nine meetings, one of which was public.

The annual reports [2] were considered in the following order with the assistance of the representatives of the mandatory Powers:

New Guinea, 1929-30.

Accredited Representative:

Mr. J. R. Collins, C.M.G., C.B.E., Official Secretary and Financial Adviser at Australia House, London.

Nauru, 1930.

Accredited Representative:

Mr. J. R. Collins, C.M.G., C.B.E.

Syria, 1930.

Accredited Representative:

M. Robert de Caix, former Secretary-General of the High Commissariat of the French Republic for Syria and the Lebanon.

---

[1] See document C.P.M.1176.

[2] The examination of the annual reports on Tanganyika, Togoland and the Cameroons under French mandate has been postponed to the autumn session.

South West Africa, 1930.

Accredited Representatives:

Mr. Charles T. TE WATER, High Commissioner for the Union of South Africa, London;
Major F. F. PIENAAR, D.T.D., O.B.E., accredited representative of the Union of South Africa to the League of Nations.

Palestine, 1930.

Accredited Representatives:

Dr. T. Drummond SHIELS, M.C., M.P., Parliamentary Under-Secretary of State for the Colonies;
Mr. M. A. YOUNG, Chief Secretary to the Palestine Government;
Mr. R. V. VERNON, C.B., of the Colonial Office.
Mr. O. G. R. WILLIAMS, of the Colonial Office.

For the examination of the special report by His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland to the Council of the League of Nations on the progress of Iraq during the period 1920-1931, the mandatory Power was represented by:

Lt.-Colonel Sir Francis H. HUMPHRYS, G.C.V.O., K.C.M.G., K.B.E., C.I.E., High Commissioner for Iraq;
Major H. W. YOUNG, C.M.G., D.S.O., Counsellor to the High Commissioner for Iraq;
Mr. R. V. VERNON, C.B., of the Colonial Office.
Mr. T. H. HALL, D.S.O., of the Colonial Office.

A. GENERAL QUESTIONS.

I. GENERAL CONDITIONS WHICH MUST BE FULFILLED BEFORE THE MANDATE REGIME CAN BE BROUGHT TO AN END IN RESPECT OF A COUNTRY PLACED UNDER THAT REGIME (Pages 12, 13, 113, 149-156, 177-179, 179-186, 189).[1]

The task assigned to the Permanent Mandates Commission was defined by the Council resolution of January 13th, 1930, in the following terms:

> " Being anxious to determine what general conditions must be fulfilled before the mandate regime can be brought to an end in respect of a country placed under that regime, and with a view to such decisions as it may be called upon to take on this matter, the Council, subject to any other enquiries it may think necessary, requests the Mandates Commission to submit any suggestions that may assist the Council in coming to a conclusion."

In response to a request for an interpretation from the Permanent Mandates Commission, the Council, on January 22nd, 1931, confirmed its former resolution, emphasising the fact that it referred " to the examination of the general problem and not the particular case in regard to which the question was raised ", and invited the Commission to pursue its study of the general aspect of this problem.

Further, it is clear from the statements made by its Rapporteur that the Council does not expect the Mandates Commission to offer suggestions as to the conditions that might be imposed for the admission to the League of a State formerly under mandate.

Within these limits the Commission has investigated the question, to which it has devoted several meetings at its nineteenth and twentieth sessions. The considerations which led the members of the Commission to agree on the suggestions formulated hereunder are set out in the Minutes of those two sessions and in the reports and notes appended thereto.

* * *

The Mandates Commission is of opinion that the emancipation of a territory under the mandate regime should be made dependent on two classes of preliminary conditions:

(1) The existence in the territory concerned of *de facto* conditions which justify the presumption that the country has reached the stage of development at which a people has become able, in the words of Article 22 of the Covenant, " to stand by itself under the strenuous conditions of the modern world ";

(2) *Certain guarantees* to be furnished by the territory desirous of emancipation to the satisfaction of the League of Nations, in whose name the mandate was conferred and has been exercised by the Mandatory.

I.

Whether a people which has hitherto been under tutelage has become fit to stand alone without the advice and assistance of a mandatory is a question of fact and not of principle. It can only be settled by careful observation of the political, social and economic development of each territory. This observation must be continued over a sufficient period for the conclusion

[1] The page members given are those of the Minutes of the Session.

to be drawn that the spirit of civic responsibility and social conditions have so far progressed as to enable the essential machinery of a State to operate and to ensure political liberty.

There are, however, certain conditions the presence of which will in any case indicate the ability of a political community to stand alone and maintain its own existence as an independent State.

Subject to these general considerations, the Commission suggests that the following conditions must be fulfilled before a mandated territory can be released from the mandatory regime — conditions which must apply to the whole of the territory and its population:

(*a*) It must have a settled Government and an administration capable of maintaining the regular operation of essential Government services;

(*b*) It must be capable of maintaining its territorial integrity and political independence;

(*c*) It must be able to maintain the public peace throughout the whole territory;

(*d*) It must have at its disposal adequate financial resources to provide regularly for normal Government requirements;

(*e*) It must possess laws and a judicial organisation which will afford equal and regular justice to all.

II.

The Commission suggests that the guarantees to be furnished by the new State before the mandate can be brought to an end should take the form of a declaration binding the new State to the League of Nations, or of a treaty or a convention or of some instrument formally accepted by the Council of the League as equivalent to such an undertaking.

The Commission suggests that, without prejudice to any supplementary guarantees which might be justified by the special circumstances [1] of certain territories or their recent history, the undertakings of the new State should ensure and guarantee:

(*a*) The effective protection of racial, linguistic and religious minorities;

(*b*) The privileges and immunities of foreigners (in the Near Eastern territories), including consular jurisdiction and protection as formerly practised in the Ottoman Empire in virtue of the capitulations and usages, unless any other arrangement on this subject has been previously approved by the Council of the League of Nations in concert with the Powers concerned;

(*c*) The interests of foreigners in judicial, civil and criminal cases, in so far as these interests are not guaranteed by the capitulations;

(*d*) Freedom of conscience and public worship and the free exercise of the religious, educational and medical activities of religious missions of all denominations, subject to such measures as may be indispensable for the maintenance of public order, morality and effective administration;

(*e*) The financial obligations regularly assumed by the former mandatory Power;

(*f*) Rights of every kind legally acquired under the mandate regime;

(*g*) The maintenance in force for their respective duration and subject to the right of the denunciation by the parties concerned of the international conventions, both general and special, to which, during the mandate, the mandatory Power acceded on behalf of the mandated territory.

In addition to the foregoing essential clauses, the Permanent Mandates Commission considers that it would be desirable that the new State, if hitherto subject to the Economic Equality Clause, should consent to secure to all States Members of the League of Nations the most-favoured-nation treatment as a transitory measure on condition of reciprocity.

II. General and Special International Conventions applied to Mandated Territories (Pages 14, 160, 188).

The Permanent Mandates Commission has studied the replies to the Council's resolution of March 5th, 1928, submitted by the mandatory Powers.

These replies have been grouped in two separate tables, the first devoted to the general international conventions and the second to the special conventions applied in the territories under mandate.

The Commission noted that, generally speaking, the Powers have notified their accession to the international conventions to which the terms of the mandates obliged them to accede, or have extended to the territories under their mandate the Conventions which they applied in their neighbouring possessions or colonies.

Should there be any exceptions, the Commission considers that the opportunity should be taken, when examining the annual reports, of drawing the attention of the representatives of the Powers concerned to any omissions which might have been noted, and of enabling these Powers to make good such omissions.

---

[1] As, for example, those which enforce recognition of the rights referred to in Articles 13 and 14 of the Palestine mandate.

The Commission has the honour to propose to the Council that it should decide:

(*a*) That the " table of *general international conventions* applied in the territories under mandate " should, without further delay, be distributed to the Members of the Council and to the Members of the League of Nations and published, and that this document should be constantly kept up to date with the help of the particulars which it is incumbent on the mandatory Powers to supply;

(*b*) That the table relating to *special conventions* should, until further notice, retain the character of a private document for the exclusive use of the Permanent Mandates Commission.

B. SPECIAL QUESTION.

Pipe-line of the Iraq Petroleum Company (Pages 47, 96-99, 144-149, 161, 163-177).

The Permanent Mandates Commission has carefully considered whether two agreements, worded in almost identical terms, concluded by the Iraq Petroleum Company with the British High Commissioner in Palestine on January 5th, 1931, and with the Lebanese and Syrian Governments on March 25th, 1931, were compatible with Article 18 of the Palestine Mandate and Article 11 of the Mandate for Syria and the Lebanon respectively.

From this examination, it was concluded that the provisions contained in the above-mentioned articles of the two mandates did not constitute an obstacle to the granting of the advantages conferred by the said agreements on the company, which has received a concession for the construction of a pipe-line both in Palestine and in Syria and the Lebanon.

The Commission feels bound to inform the Council, however, that during its discussions on this question doubts were expressed by certain of its members as to whether some of the clauses of the agreements in question kept the necessary balance between the advantages and privileges granted to the concessionary company and the advantages which would accrue to the two territories.

C. OBSERVATIONS CONCERNING THE ADMINISTRATION OF CERTAIN TERRITORIES UNDER MANDATE.

The following observations, which the Commission has the honour to submit to the Council, were adopted after consideration of the situation in each territory in the presence of the accredited representative of the mandatory Power concerned. In order to appreciate the full significance of these observations, reference should, as usual, be made to the Minutes of the meetings at which the questions concerning the different territories were discussed. [1]

TERRITORIES UNDER A MANDATE.

Palestine.

General Observations.

In addition to the annual report for 1930, the Commission noted the declaration by the British Government, dated October 1930 (Cmd. 3692), and the text of the letter from the British Prime Minister to Dr. Weizmann, dated February 13th, 1931, which, according to a statement by the British Government, is to be read as the authoritative interpretation of the White Paper on the matter with which the letter deals. Furthermore, the mandatory Power communicated to it Sir John Hope Simpson's report on immigration, colonisation and agricultural development, Mr. C. F. Strickland's report on the possibility of introducing a system of agricultural co-operation in Palestine, and the report submitted by a committee appointed by the High Commissioner on the economic condition of agriculturists in Palestine and the fiscal measures of government in relation thereto.

The Commission was glad to note that order has been maintained in Palestine during the year 1930, thanks to a series of measures taken by the mandatory Power, and the re-organisation of the police force. The year 1930 was marked by a series of enquiries, studies and pourparlers from which it will be possible to draw useful lessons and they will no doubt be translated into concrete measures.

The Commission noted a statement by the accredited representative to the effect that the British Government was endeavouring to facilitate Jewish immigration without prejudicing the Arab majority by increasing Palestine's economic capacity to absorb immigrants. It also noted that the preparation of a systematic plan of agricultural development was to be entrusted to a special commissioner. Lastly, the Commission welcomed the recognition by the accredited representative of the fact that the improvement of relations between the Arabs and Jews depended

[1] The page numbers given at the end of each observation are those of the Minutes of the session.

on a just settlement founded on a detailed study of a series of questions of an economic nature, for which the mandatory Power was asking the assistance of the population.

The Mandates Commission, which has followed, not without some uneasiness, the fluctuations of the mandatory Power's policy in Palestine, earnestly hopes that the new endeavours to solve the problem of the relations between the Arabs and Jews will be crowned with success.

Special Observations.

1. *Legislative Council.*

The Commission welcomed the statement by the accredited representative that the mandatory Power, in accordance with the declaration of October 1930, intended to set up a Legislative Council. It took note of the fact that a departure from that declaration would be made as regards various matters which had not been provided for by the Order-in-Council of 1922 and would no doubt be determined by a new Order-in-Council (Pages 81-82).

2. *Local Autonomy.*

The Commission hopes that the mandatory Power will soon give effect to its intention to re-organise the municipal authorities and to confer on them as wide powers as possible. (Page 83).

3. *Public Finance.*

The British Government, in its comments upon the Mandates Commission's report on its seventeenth session, states that it has spent over £9,000,000 sterling in Palestine since 1921, including the costs of defending the territory. Since there is no indication in the annual report for 1930 that any part of this grant has been employed otherwise than in military and police expenditure, the Commission would be glad if the next report would give detailed figures as to the amount assigned from this sum to the civil administration and economic development of the territory. (Page 81).

4. *Immigration and Emigration.*

The Commission considers that the periodical compilation of more accurate statistics on unemployment will be of the greatest value both in determining the annual quotas of labour contingents to be admitted into Palestine and in satisfying public opinion as to the decision arrived at. (Pages 86-87).

5. *Wailing Wall.*

The Commission hopes that the report by the International Commission which, in accordance with the Council's resolution of January 14th, 1930, has finally determined the rights and claims of the Jews and Moslems with regard to the Wailing Wall at Jerusalem, will put an end to the past controversies. (Pages 95-96).

Syria and the Lebanon.

General Observations.

The Commission noted a declaration by the accredited representative of the mandatory Power to the effect that the Organic Statute promulgated in May 1930 has begun to be applied. It recorded the mandatory Power's intention of concluding in the near future treaties with the Governments of Syria and the Lebanon taking into account the evolution which has taken place and the progress which has been achieved. The accredited representative informed it that the present process of evolution points to the termination of the mandate for Syria and the Lebanon at a not very distant date, and that, consequently, the treaty to be concluded with the Governments of these countries would relate not only to the carrying out of the mandate but to its replacement by a new regime.

The Commission will follow with interest this evolution, and the stages leading up to the point at which Syria and the Lebanon will no longer need the advice and assistance of the Mandatory, by which they have so far benefited for only a short space of time.

It expresses the hope that, in the agreements preparing the way for the new regime in Syria and the Lebanon, the mandatory Power will endeavour to ensure the maintenance of certain rights and interests, the safeguarding of which was specially entrusted to the Mandatory until the termination of the mandate.

It trusts that it will be kept regularly informed of the various phases of this evolution. (Pages 32-38, 162-163).

Special Observations.

1. *General Administration.*

The Commission noted the accredited representative's statement to the effect that the Conference of Common Interests provided for in the Organic Statute had already held a meeting.

The Commission hopes to find in the next annual report as complete information as possible on the work of this Conference. (Pages 33, 39).

2. *Public Finance.*

The Commission would be glad to find in the next annual report more exact details as to the system of allocating the receipts and expenditure of the joint budget between the different political units of the territory. (Page 48).

3. *Land Credit.*

The Commission would like to find in the next annual report more detailed information regarding the operation of the land credit system. (Page 43).

4. *Labour.*

The Commission has noted with much satisfaction that a first measure of labour legislation has been adopted in the State of Syria in the form of an order regulating the age for admission of children to industrial employment and night-work for young persons. The Commission would be glad to be informed in the next report that consideration is being given to the adoption in Syria of further legislation—*e.g.*, regulating female labour—and to the promulgation of labour legislation in the other political units of the territory. (Page 50).

TERRITORIES UNDER C MANDATE.

Nauru.

1. *Liquor Traffic.*

The Commission notes that, in spite of the fact that the supply of liquor to the natives is prohibited, the consumption of alcoholic liquor, and especially of spirits, has increased. It requests that further information on this subject may be given in the next report. (Page 30).

2. *Public Health.*

The Commission is glad to note the progress made in the campaign against leprosy. (Page 30).

New Guinea.

1. *Social Conditions of the Natives.*

The Commission has noted with great interest the report by the official anthropologist Mr. Chinnery. Further information as to the authority exercised by the chiefs over their people will be welcomed. It would also be glad to hear whether the system of indentured labour has had harmful consequences on the social life of the natives, and whether the absence of a large proportion of the men for the plantations or the mines has had a prejudicial effect on village life. With regard to the proportion of the population under indenture, the Commission has noted that the Administration of New Guinea lays down in practice that an approximate proportion of males and females should remain in the villages, regard being had to local conditions. The Commission would like to find in the next report some indication in figures of the proportions thus laid down. (Pages 15, 19-23).

2. *Labour.*

The Commission welcomes the evidence in the report of the perseverance of the mandatory Power in seeking to improve the conditions of indentured labour—in particular, by providing for the further consideration of reforms of the recruiting system, for increased inspection, and for the better safeguarding of the interests of time-expired labourers travelling home. It has also been glad to note that proposals are under consideration for facilitating the extension of the use of non-indentured labour. The Commission would be glad to find in the next report further information as to the various proposals for reform now under consideration. (Pages 19-23).

3. *Commerce.*

The Commission would be glad to have further information as to the amount of the bounties granted on products exported from New Guinea to Australia. (Pages 18, 23-24).

South West Africa.

General Observations.

The Commission would like to know in particular whether the mandatory Power holds itself responsible for the budget of the mandated territory voted by the local legislature, and, if so, how it carries out its duties in this respect. (Pages 57-60).

Special Observations.

1. *Public Finance.*

The Commission noted that the budget deficit and the debt of the territory were assuming considerable proportions. It would like to find detailed information in the next report with regard to the measures it is proposed to take in view of this situation.

The Commission would further be glad to receive in the next report more detailed information with regard to the recovery of sums expended by the mandatory Power in respect of the " Angola farmers " (see text of South African Union Law No. 34). (Pages 62-63).

2. *Agriculture.*

The Commission was glad to hear from the accredited representative that the period of drought which had sorely tried the mandated territory during the year 1930 had come to an end. It noted with satisfaction the efforts made by the mandatory Power to relieve the victims of the drought. It would be glad to obtain supplementary information in the next annual report with regard to the measures taken to make good the losses in live-stock. (Pages 53,55-56).

3. *Labour.*

The Commission has been happy to note the success of the measures taken by the mandatory Power in obtaining a steady decrease in the death rate among mine labourers. Nevertheless, the death rate among the " Angola Ovambos " remains high, and the Commission would like to find in the next report information regarding the further measures the Administration proposes to take to deal with this problem. (Pages 66-67).

4. *Education.*

The Commission has noted with satisfaction the growing interest taken by the Administration in native education and the co-operation established with the missions in this respect. (Pages 53, 56-57, 66).

D. SPECIAL REPORT BY HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE COUNCIL OF THE LEAGUE OF NATIONS ON THE PROGRESS OF IRAQ DURING THE PERIOD 1920-1931.

(Pages 12-13, 113-140, 142-144, 157-160.)

In the course of this session, the Commission had occasion to examine the mandatory Power's report on the progress made by Iraq between 1920 and the present day. This examination was of particular interest, inasmuch as the Commission enjoyed the help of Sir Francis Humphrys, the High Commissioner, and his chief assistant, Major H. W. Young, who gave very valuable particulars supplementary to those contained in the report.

So far as its normal sources of information permit, the Commission is thus now in a position, to the extent compatible with the nature of its functions and its procedure, and subject to the information which has been promised to it, to express its views on the mandatory Power's proposal for the termination of the Iraq mandate. As soon as the Council has reached a decision as to the general conditions which must be fulfilled before a mandate can be brought to an end, the Commission will be ready to submit to the Council its opinion on the British proposal regarding Iraq, after examining that proposal in the light of the Council's resolution. [1]

E. OBSERVATIONS ON PETITIONS.

At its twentieth session, the Commission considered the petitions mentioned below, together with the observations with regard thereto furnished by the mandatory Powers. Each of the petitions was reported on in writing by a member of the Commission. After discussion, the conclusions hereunder were adopted by the Commission. The texts of the reports submitted to the Commission are attached to the Minutes. [2]

---

[1] " One of the members of the Commission, who was unable to support these views, expressed his own views at the nineteenth and twenty-second meetings (*Vide* Minutes, pp. 142-144 and 157-160)."

[2] The Commission recommends that copy of the petitions and observations of the mandatory powers relating thereto should be kept in the Library of the League of Nations.

Iraq.

(a) *Petitions dated September 23rd and December 9th, 1930, from M. A. Hormud Rassam* (documents C.P.M.1108, 1108(*a*) and 1156). (Pages 122-123, 125-126, 134, 187.)

Observations from the British Government dated May 6th, 1931 (document C.P.M.1156).
Report (see Minutes, Annex 8).

CONCLUSIONS.

The Commission suggests that the Council should draw the mandatory Power's attention:

(1) To the necessity of not relaxing its supervision over the situation of the minorities in Iraq;

(2) To the necessity of securing from the Iraqi Government the guarantees for the treatment of racial and religious minorities which, according to the mandatory Power's statement already mentioned in the report of the Commission on its nineteenth session, the Iraqi Government was prepared to give.

The Commission further suggests that the Council inform the petitioner that his petition has been considered, and that the League of Nations will continue to ensure that the rights of the minorities are respected, will all the greater zeal and sympathy if it is convinced that these minorities are loyally contributing to the security and prosperity of the State of Iraq.

The Commission considers, moreover, that it does not require to recommend the Council to take any special action on this petition.

b) *Petition from M. Yusuf Malek, dated April 20th, 1931* (document C.P.M.1179) (Pages 14, 187).

Observations from the British Government, dated June 2nd, 1931 (document C.P.M.1179).
Report (see Minutes, Annex 9).

CONCLUSIONS.

The Commission is of opinion that this petition is not sufficiently important to form the object of a recommendation to the Council.

(c) *Petitions emanating* (1) *from Kurds of Iraq, transmitted by the British Government on February 20th, 1931* (document C.P.M.1140) (Pages 119-122, 125-128, 161), *and*

(2) *from Tawfiq Wahbi Beg, dated April 19th, 1931* (documents C.P.M.1192 and 1192(*a*)) (Pages 123-124, 161).

Observations from the British Government, dated February 20th, April 27th, June 8th and June 13th, 1931 (documents C.P.M.1140, 1151, 1184 and 1192).
Report (see Minutes, Annex 10).

CONCLUSIONS.

The Commission, having examined eight petitions emanating from various Kurdish personages and groups in Iraq, together with the observations which the mandatory Power has been good enough to make on this subject, has the honour to recommend the Council:

(1) To thank the mandatory Power for the care with which it has carried out its enquiries on the spot and prepared its observations arising out of these various petitions;

(2) To request the mandatory Power to impress upon the Government of Iraq that it should be guided, in its dealings with its Kurdish subjects, by a spirit of broad toleration towards a minority worthy of respect, whose loyalty will grow in proportion as it is freed from all fear of danger to its natural rights, as explicitly recognised by the mandatory Power and the League of Nations;

(3) To inform the petitioners that the League of Nations will continue to ensure that their rights are respected with all the greater zeal and sympathy if it is convinced that the Kurds are loyally contributing to the security and prosperity of the State of Iraq;

(4) To give its closest attention to the uneasiness undoubtedly prevalent in the Kurdish population, which is caused by uncertainty as to the fate which awaits them if the moral protection of Great Britain, of which they have had the benefit for more than ten years, is to be withdrawn.

(d) *Petition of the British Oil Development Company, Limited. Conclusions to be drawn from the British Government's communication dated June 4th, 1931* (document C.P.M.1182) (Page 187).
Report (see Minutes, Annex 5*b*).

CONCLUSIONS.

In view of the British Government's communication dated June 4th, 1931, from which it appears that the case dealt with in the British Oil Development Company's petition is capable

of being brought before the Iraqi courts, the Commission considers that it is not competent to examine the petition in question on behalf of the Council.

Palestine.

(a) *Memorandum by the Arab Executive Committee, dated December 1930, on the Statement of Policy issued by His Majesty's Government in October 1930* (Cmd. 3692) (document C.P.M.1169). (Pages 15, 82, 141.)

Observations from the British Government, dated May 11th, 1931 (document C.P.M.1169). Report (see Minutes, Annex 11).

CONCLUSIONS.

The Commission, considering that the questions raised by this petition have already been dealt with, on the occasion of the examination of the annual report on Palestine for 1930, believes that there is no need to express an opinion on this petitition, and would refer to the Minutes of the present session.

(b) *Memorandum by the Jewish Agency, dated April 30th, 1931, on the Development of the Jewish National Home in Palestine during 1930* (document C.P.M.1178). (Pages 15, 161).

Observations from the British Government, dated June 10th, 1931 (document C.P.M.1187). Report (see Minutes, Annex 12).

CONCLUSIONS.

The Commission considers that neither the memorandum nor the observations of the mandatory Power would seem to give occasion for a recommendation to the Council.

Syria and the Lebanon.

(a) *Petition, dated June 9th,* 1930, *signed by Three Inhabitants of Aleppo, and Petition, dated June 16th, 1930 signed by 184 Inhabitants of Damascus* (Document C.P.M.1174). (Pages 14, 187.)

Observations from the French Government, dated June 4th, 1931 (document C.P.M.1174). Report (see Minutes, Annex 13).

CONCLUSIONS.

The Commission is of opinion that these petitions do not call for any action on its part.

(b) *Petition, dated May 7th, 1929, from M. Ahmed Muktar el Kabbani* (document C.P.M.1175) (Pages 14, 187).

Observations from the French Government, dated June 4th, 1931 (document C.P.M.1175). Report (see Minutes, Annex 14).

CONCLUSIONS.

The Commission is of opinion that this petition does not call for any action on the part of the Council.

Syria and Palestine.

Petition, dated December 12th, 1930, from Mrs. Evelyn Evans (document C.P.M.1141) (Pages 95, 161).

Observations from the British Government, dated April 29th, 1931 (document C.P.M.1152). Observations from the French Government, dated June 4th, 1931 (document C.P.M.1176). Report (see Minutes, Annex 15).

CONCLUSIONS.

The Commission, having examined the petition from Mrs. Evelyn Evans and the observations of the mandatory Powers concerned, is of opinion that this is a case which can be dealt with by the courts of law and is therefore not within the Commission's competence.

II.

COMMENTS OF THE ACCREDITED REPRESENTATIVES SUBMITTED IN ACCORDANCE WITH SECTION (*e*) OF THE CONSTITUTION OF THE PERMANENT MANDATES COMMISSION.

The accredited representatives for New Guinea, Nauru, Syria and the Lebanon, South West Africa and Palestine have stated that they have no comments to make on the observations contained in the report of the Permanent Mandates Commission.

INDEX

P.M.C. = Permanent Mandates Commission.

Permanent Mandates Commission

MINUTES

First session	5/–	$1.—
Second »	5/–	$1.—
Third »	7/6	$2.—
» » (annexes)	5/–	$1.20
Fourth »	5/9	$1.40
Fifth »	6/6	$1.60
Sixth »	6/6	$1.60
Seventh »	7/–	$1.80
Eighth »	5/–	$1.20
Ninth »	6/–	$1.50
Tenth »	6/6	$1.60
Eleventh »	not on sale.	
Twelfth »	7/6	$2.00
Thirteenth session	7/6	$2.00
Fourteenth »	10/–	$2.50
Fifteenth »	10/–	$2.50
Sixteenth »	6/–	$1.50
Seventeenth »	6/–	$1.50
Eighteenth »	8/–	$2.00
Nineteenth »	8/–	$2.00

REPORTS

First session	3d.	$0.05
Second »	9d.	$0.20
Third »	9d.	$0.20
Fourth »	6d.	$0.15
Fifth »	4d.	$0.10
Sixth »	6d.	$0.10
Seventh »	4d.	$0.10
Eighth »	5d.	$0.10
Ninth »	5d.	$0.10
Tenth »	5d.	$0.10
Eleventh »	5d.	$0.10
Twelfth »	6d.	$0.10
Thirteenth session	6d.	$0.10
Fourteenth »	6d.	$0.15
Fifteenth »	6d.	$0.15
Sixteenth »	6d.	$0.15

Index to the Records of the Permanent Mandates Commission, Sessions I-V (C.686.M.245.1925.VI)	1/6	$0.40
Index to the Records of the Permanent Mandates Commissions, Sessions VI-X (Ser. L.o.N. P.1927.VI.A.14)	1/6	$0.40

Complete catalogue sent free on application.

PUBLICATIONS DEPARTMENT, LEAGUE OF NATIONS, GENEVA.

AUTHORISED AGENTS FOR THE PUBLICATIONS OF THE LEAGUE OF NATIONS

ARGENTINE
Librería " El Ateneo ", calle Florida 371, BUENOS AIRES.

AUSTRALIA (Commonwealth of)
H. A. Goddard, Ltd., 255A, George Street, SYDNEY.

AUSTRIA
Manz'sche Verlags- und Universitätsbuchhandlung, Kohlmarkt 20, VIENNA I.

BELGIUM
Agence Dechenne, Messageries de la Presse, S. A., 18-20, rue du Persil, BRUSSELS.
Albert Dewit, Rue Royale, 53, BRUSSELS.

BRAZIL
Livraria Vieira Souto, Praça Mauá 7, Sala 620, RIO DE JANEIRO.

BULGARIA
Librairie Française et Etrangère, J. Carasso & Cie, Bd. " Tsar Osvoboditel ", No. 8, SOFIA.

CANADA
League of Nations Society in Canada, 389, Wellington Street, OTTAWA.

CHILE
Carlos Niemeyer, Librería Universal, Cas. 293, VALPARAISO.

CHINA
Commercial Press Ltd., 501 Paoshan Road, SHANGHAI.

CZECHOSLOVAKIA
Librairie F. Topic, 11, Narodni, PRAGUE.

DANZIG (Free City of)
Georg Stilke, Buchhandlung, Langgasse 27, DANZIG.

DENMARK
Levin & Munksgaard, Publishers, Norregade, 6, COPENHAGEN.

DUTCH EAST INDIES
Algemeene Boekhandel G. Kolff & Co., BATAVIA-WELTEVREDEN.

ECUADOR
Victor Janer, GUAYAQUIL.

ESTONIA
J. G. Krüger, Ant.-Ges., 11, Rüütli t., TARTU.

FINLAND
Akateeminen Kirjakauppa, HELSINKI.

FRANCE
Librairie universitaire J. Gamber, S.A., 7, rue Danton, PARIS (VI[e]).

GERMANY
Carl Heymanns Verlag, Mauerstrasse 44, BERLIN W.8.

GREAT BRITAIN, NORTHERN IRELAND AND THE CROWN COLONIES
George Allen & Unwin, Ltd., 38, Gt. Ormond Street, LONDON, W.C.1.

GREECE
" Eleftheroudakis ", Librairie internationale, Place de la Constitution, ATHENS.

HAITI
Librairie-Papeterie Mme. D. Viard, angle des rues du Centre et des Casernes, PORT-AU-PRINCE.

HUNGARY
Librairie Grill, Dorottya utca 2, BUDAPEST.

ICELAND
Peter Halldorsson, REYKJAVIK.

INDIA
The Book Company, Ltd., College Square, 4/4 A, CALCUTTA.

IRISH FREE STATE
Eason & Son Ltd., 79-82 Middle Abbey Street, DUBLIN.

ITALY
Anonima Libraria Italiana, Direzione Generale, Via Palermo 12, MILAN. Branches: FLORENCE, GENOA, NAPLES, PADUA, PALERMO, PAVIA, ROME, TRIESTE, TURIN.

JAPAN
League of Nations Tokio Office, Marunouchi-C.-13, TOKIO.
Maruzen Co., Ltd. (Maruzen-Kabushiki-Kaisha), 6, Nihonbashi Tori-Nichome, TOKIO.

LATVIA
Latvijas Telegrafa Agentura, K. Barona Iela, 4, RIGA.

LITHUANIA
Librairie de la Société Lithuano-Française, Laisvės Aleja, 22, KAUNAS.

LUXEMBURG (G.-D.)
Librairie J. Heintzé, M. Hagen, Successeur, Place Guillaume, 8, LUXEMBURG.

NETHERLANDS
Martinus Nijhoff, Boekhandelaar-Uitgever, Lange Voorhout 9, THE HAGUE.

NEW ZEALAND
The Clarté Bookshop, Walter Nash, 126, Vivian Street, P.O. Box 310, WELLINGTON.

NORWAY
Olaf Norli, Universitetsgaten, 24, OSLO.

PARAGUAY
Librería Internacional Santiago Puigbonet, Casilla de Correo 581, ASUNCIÓN.

POLAND
Gebethner & Wolff, ulica Zgoda 12, WARSAW.

PORTUGAL
J. Rodrigues & Ca., Rua Aurea 186-188, LISBON.

ROUMANIA
" Cartea Românească ", 3-5, Boul. Academiei, BUCHAREST, I.

SAAR BASIN
Gebr. Hofer A.-G., Sortimentsabteilung, SAARBRUCK.

SOUTH AFRICA (Union of)
Maskew Miller, Ltd., 29, Adderley Street, CAPE TOWN.

SPAIN
Centro Editorial " Minerva ", Apartado 555, Tudescos 39-41, MADRID, E.12.

SWEDEN
C. E. Fritze, Hofbokhandel, Fredsgatan, 2, STOCKHOLM.

SWITZERLAND
Librairie Payot & Cie., GENEVA, LAUSANNE, VEVEY, MONTREUX, NEUCHÂTEL, BERNE, BASLE.
Librairie Dr. H. Girsberger & Cie., Kirchgasse 17, ZURICH.

TURKEY
Libraire Anadolou Méarif, Boîte postale 45, ANKARA.

UNITED STATES OF AMERICA
World Peace Foundation, 40, Mt. Vernon Street, BOSTON 9, Mass.

YUGOSLAVIA (Kingdom of)
Librairie Internationale François Bach, 8, rue Knez Mihailova, BELGRADE.
Librairie de l'Université et de l'Académie Yougoslave, St. Kugli, Ilica 30, ZAGREB.
Knjigarna " Schwentner ", Presernova ulica, LJUBLJANA.

For other Countries, apply:

PUBLICATIONS DEPARTMENT OF THE LEAGUE OF NATIONS.
GENEVA (Switzerland).