

LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

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MINUTES

OF THE

THIRTY-FOURTH SESSION

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

including the

REPORT OF THE COMMISSION TO THE COUNCIL

---

GENEVA, 1938

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## PERMANENT MANDATES COMMISSION

### MINUTES OF THE THIRTY-FOURTH SESSION

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

The following members of the Commission took part in the work of the session :<sup>1</sup>

M. ORTS (*Chairman*) ;  
M. RAPPARD (*Vice-Chairman*) ;  
Baron VAN ASBECK ;  
Mlle. DANNEVIG ;  
M. GIRAUD ;  
Lord HAILEY ;  
M. PALACIOS ;  
Count DE PENHA GARCIA ;  
M. SAKENOBE.

*Expert of the International Labour Organisation* : Mr. C. W. H. WEAVER.

*Secretary* : M. E. DE HALLER, Director of the Mandates Section.

M. RAPPARD (*Vice-Chairman*) acted as Chairman for part of the last meeting.

The following accredited representatives of the mandatory Powers attended certain meetings of the Commission :

For *Palestine and Transjordan* :

Sir John SHUCKBURGH, K.C.M.G., C.B., Deputy Under-Secretary of State for the Colonies ;

Mr. Sydney MOODY, O.B.E., Deputy Chief Secretary, Government of Palestine ;

Mr. A. S. KIRKBRIDE, O.B.E., M.C., District Commissioner, Galilee and Acre District, Palestine.

For *Tanganyika Territory* :

Mr. H. C. D. C. MACKENZIE-KENNEDY, C.M.G., Chief Secretary to the Government of the Territory ;

Mr. G. K. WHITLAMSMITH, Officer in the Secretariat, Tanganyika Territory.

For *Togoland under French mandate* :

M. M. BESSON, Director of the "Agence économique de l'Afrique-Occidentale française", Paris ;

assisted by

M. THÉBAULT, "Conseiller à la Cour d'appel", former "Procureur de la République", in Lomé.

For *Nauru* :

Major O. C. W. FUHRMAN, O.B.E.

For *New Guinea* :

Major O. C. W. FUHRMAN, O.B.E.

For *South West Africa* :

Mr. C. T. TE WATER, High Commissioner for the Union of South Africa in London ;

Mr. H. T. ANDREWS, Accredited Representative of the Union of South Africa to the League of Nations.

\* \* \*

The Commission also gave a hearing to M. Robert DE CAIX, Accredited Representative of the Government of the French Republic, concerning the mandatory Power's request that the examination of the annual report on the situation in Syria and Lebanon during 1937 should be postponed until the autumn session, and concerning the petitions relating to that territory.

\* \* \*

All the meetings of the Commission, with the exception of part of the first, were private.

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<sup>1</sup> *Absence of the members* : M. ORTS (*Chairman*) : part of the last meeting ; M. RAPPARD (*Vice-Chairman*) : fourth and twentieth meetings ; Mlle. DANNEVIG : last fourteen meetings ; Lord HAILEY : first seven and tenth meetings ; M. SAKENOBE : first four and last two meetings.

## FIRST MEETING.

*Held on Wednesday, June 8th, 1938, at 11 a.m.*

### **Opening Speech by the Chairman : Tribute to the Marquis Alberto Theodoli : Appointment of M. de Haller as Director of the Mandates Section.**

The CHAIRMAN spoke as follows :

I have the honour to declare open the thirty-fourth session of the Permanent Mandates Commission.

All the members of the Commission will take part in the session which opens to-day ; but Lord Hailey and M. Sakenobe will be prevented by circumstances from reaching Geneva for some days.

The Commission learned with great regret of the resignation, some months ago, of the Marquis Alberto Theodoli, who was the distinguished Chairman of the Commission for many years. We shall retain the happiest recollections of our work in common with this colleague, whose clear-sightedness we have always appreciated.

Before we begin our work, I shall, in accordance with custom, review briefly the discussions and decisions with regard to mandates which have taken place since our last session.

On January 28th last, the Council examined the report on the work of the thirty-third session of the Commission. Our Vice-Chairman, M. Rappard, was present ; but he had no occasion to speak, as the report and draft resolution submitted by the representative of Roumania (with which the Commission is no doubt acquainted) were adopted without discussion by the Council.

The Council invited the Governments of the mandatory Powers concerned to give effect to the observations of the Commission. It further approved the Commission's conclusions in the matter of the petitions submitted for its consideration.

The annual report on the administration of the Cameroons under French mandate should normally come up for consideration at the present session ; but, as it has been materially impossible for the mandatory Power to communicate the report before our meeting, I can only propose that the Commission should postpone consideration of the report to its autumn session. The disadvantages of such a step are in some measure mitigated by the fact that the report on Togoland under French mandate, which, in recent years, has come up for consideration by the Commission in autumn, appears on the agenda of the present session.

My colleagues will have gathered from the letter dated May 31st, 1938,<sup>1</sup> from the French Government that the latter asks for postponement till the autumn session of the Commission of the consideration of the annual report on Syria and Lebanon for 1937, in view of the disadvantages which the mandatory Power considers would attach to discussion of the report at a moment when the territories concerned are in process of political evolution under circumstances which call for delicate handling. My colleagues will, I am sure, agree with me in regarding such postponement as very regrettable. I shall make proposals for the discussion of this subject at one of our earliest meetings.

M. RAPPARD expressed the general satisfaction of the Commission at the return of M. Orts to the Chair.

The CHAIRMAN thanked M. Rappard for his kind remarks. He had been able to appreciate, from the Minutes of the thirty-third session and such echoes of the discussions as had reached him, that the work of the Commission had not in any way suffered from the involuntary absence of the Chairman. He thanked M. Rappard for having taken the chair with his usual distinction on the occasion of the session in question.

The Commission would remember that, since the last session, M. de Haller had been appointed Director of the Mandates Section. He had already acted in that capacity for some time past ; and the members of the Commission had been able to appreciate the wideness of his knowledge and the soundness of his judgment. He was sure all his colleagues were glad that the direction of the Mandates Section had been placed in such experienced hands.

### **Statement by the Director of the Mandates Section.**

M. DE HALLER made the following statement :

Since the Commission's last session, the Mandates Section has pursued its normal tasks in connection with mandates.

The Minutes and the report of the Commission on the work of its thirty-third session were printed under the Section's supervision and circulated to the Council and to the States Members of the League on January 8th, 1938.

<sup>1</sup> Document C.P.M. 2029.



The members of the Commission have been kept in touch with the essential political, economic and social facts relating to the mandated territories through the regular distribution of information from official sources and selected Press extracts.

The Minutes of the Council meeting held on January 28th, 1938, at which the report of the Commission on the work of its thirty-third session was examined, were communicated to the members of the Commission on February 14th, 1938.

As usual, a list of official documents transmitted by the mandatory Powers has been drawn up for each of the territories the administration of which is to be examined at the present session (Annex I).

The annual reports reached the Secretariat on the following dates :

Territory	Administrative period	Date of reception
New Guinea . . . . .	1936/37	May 2nd, 1938
Nauru . . . . .	1937	May 23rd, 1938
South West Africa . . . . .	1937	May 23rd, 1938
Palestine and Trans-Jordan . . . . .	1937	June 1st, 1938
Tanganyika Territory . . . . .	1937	June 3rd, 1938
Togoland under French Mandate . . . . .	1937	June 7th, 1938

In conclusion, M. de Haller recalled that steps were being taken at the moment to hold the first elections in the Sanjak of Alexandretta under the supervision of a Commission appointed in accordance with Article 15 of the Fundamental Law adopted by the Council on May 29th, 1937.<sup>1</sup> The regulations<sup>2</sup> for these elections were finally fixed in March last, in accordance with the procedure laid down in the Council resolution of January 31st, 1938.<sup>3</sup> The text of these decisions of the Council was communicated at the time to the Mandates Commission by the Secretariat.

**Question of the Delay in the Presentation of Certain Annual Reports by Mandatory Powers :  
Question of the Re-distribution of the Annual Reports between the Two Ordinary Sessions  
of the Commission.**

The CHAIRMAN said that the Governments concerned had apologised for the delay in the communication of certain of the annual reports. The reports on Tanganyika and Togoland under French mandate in particular, which were transmitted on June 3rd and June 7th respectively, could only be distributed to the members of the Commission after their arrival at Geneva. The delay made it very difficult to consider these reports, inasmuch as all the members of the Commission were fully occupied with the work of the session. The Commission might desire to express its regret at the delay in the receipt of the two reports in question.

M. RAPPARD wished also to express his regret at the delay in the receipt of certain reports. There might be reasons for the delay, of which the Commission knew nothing ; but the fact remained, as the Chairman had said, that the fulfilment by the Commission of its duties in the matter suffered seriously thereby. The consideration of the reports in question, which was one of the principal duties of the Commission, was bound to be hasty under the circumstances, and such relaxation of the supervision which it was the Commission's duty to exercise, which must inevitably ensue, could not be other than regrettable.

M. VAN ASBECK also regretted the delay in the submission of two of the reports. He wondered whether the Commission would not be well advised to draw the special attention of the Council to the point, and to urge the latter to inform the mandatory Powers concerned of the difficulties occasioned by such delays, and ask them to make every effort to ensure that the Commission would receive the reports by the date fixed by the rules of procedure, which had been approved by the Council. It was very desirable that the Commission's regrets in this matter should not merely be mentioned in the Minutes, but should be brought before the Council in a more official form.

For the last six or seven years, if he were not mistaken, the reports on Togoland and the Cameroons under French mandate had been examined at the same session and in conjunction with the reports on the territories of West Africa under British mandate. The breach in the unity of the four reports in question was regrettable. It was obviously desirable that they should all four be considered at the same session, not only because they dealt with neighbouring territories, but also because the districts concerned were similar in themselves, and had similar populations and similar social and economic conditions. M. van Asbeck suggested that, in future, the unity in question should be maintained intact. He might go still further and express the wish that unity should be established also between the two reports on East Africa and the four reports on the Pacific Islands ; that was, however, a wish to which it might be difficult to give satisfaction, though it must be recognised that such a combination would facilitate the work of the Commission.

<sup>1</sup> See *Official Journal*, May-June 1937, pages 331 and 588.

<sup>2</sup> Document C.103.M.56.1938 ; Ser. L.O.N. P. 1938. 1 (See also *Official Journal*, July 1938).

<sup>3</sup> See *Official Journal*, February 1938, page 115.

The CHAIRMAN recalled that, under the rules of procedure, the reports on Togoland and the Cameroons under French mandate were examined at the spring session, while the reports on Togoland and the Cameroons under British mandate were examined at the autumn session. An effort had been made in 1938 to observe the rules once again by dealing with the reports relating to the two territories under French mandate at the spring session; but material circumstances had prevented the printing of the report on the Cameroons under French mandate in time. It was clear that the Commission could alter its rules of procedure and regroup the reports on territories with very similar conditions for consideration at one or other of its two sessions. The departure from the rule, to which he had referred, was a development of recent years.

Count DE PENHA GARCIA asked that the rule should be observed. If the two reports on Togoland and the two reports on the Cameroons were to be considered at one and the same session, that would deprive the session of much of its variety and interest.

Mlle. DANNEVIG agreed with M. van Asbeck. It would seem to her to be better to have the opportunity of considering the two reports on Togoland and the two reports on the Cameroons at one and the same session. However, she did not know if it was possible to alter the rule accordingly.

The CHAIRMAN said the matter would be considered again.

#### **Syria and Lebanon : Question of the Adjournment to the Autumn Session of the Examination of the Annual Report for 1937 : Petitions.**

M. RAPPARD, referring to the letter received from the French Government<sup>1</sup>, observed that there would be an opportunity for reconsideration of the matter, as the Chairman had pointed out in his opening speech. He had not himself any information on the subject of the missing report other than what was to be found in the letter from the French Government of May 31st. The arguments put forward in the latter communication, although very well put, had not convinced him. It was perfectly obvious that Syria and Lebanon, like the neighbouring countries to the south, were in process of full evolution, but there was no reason to suppose that this evolution would be arrested or suspended within a few months. On the contrary, precisely because very important decisions were being considered, and sometimes taken, it was particularly regrettable that the Mandates Commission, and the League of Nations, should be deprived of the opportunity of learning something of that evolution, and of submitting to the mandatory Power, any reflections to which their examination of the situation might lead.

The CHAIRMAN pointed out that the French Government, in its letter, did not formally refuse to consider the situation in Syria on the present occasion: it merely asked that the matter should be postponed till the autumn. The Commission could therefore consider the point. The French Government had put forward arguments in support of its suggestion; the Commission could decide to keep to the rule whereby the report on the States of the Levant was to be examined at the summer session, or it could accept the contentions put forward.

#### **Election of the Chairman and Vice-Chairman for the Year 1938/39.**

M. ORTS was elected Chairman, and M. RAPPARD was elected Vice-Chairman for the year 1938/39.

#### **Adoption of the Agenda and Programme of Work.**

The Commission examined its draft agenda and programme of work.

M. RAPPARD observed that it was proposed to hold fewer meetings at the beginning of the session and more at the end. Experience showed that it was towards the end of the session, after the members of the Commission had had the opportunity of questioning the accredited representatives on the petitions, that they most needed leisure to draft their observations. He would be glad if—at any rate in the future—more meetings could be held at the beginning of the session.

Those members of the Commission, in particular, who would have to report on the petitions from Syria would find it difficult to prepare their reports, if they had had no possibility of conversations with the accredited representative. Would it be too much to ask the accredited representative to appear before the Commission in the course of the present session? If the Commission had no opportunity of discussing with the accredited representative the mandates for the States of the Levant, the consideration of the petitions relating thereto would have to be adjourned. The Commission would have great difficulty in expressing opinions of any value, if it had before it only the grievances of the petitioners and the observations—often summary—of the mandatory Power.

<sup>1</sup> Document C.P.M. 2029.

The CHAIRMAN recalled that the Commission had still to consider whether it would comply with the French Government's request. In any case, there was nothing to prevent the Commission asking the accredited representative to attend the meetings for the consideration of the petitions from Syria. It seemed to him essential not to postpone the consideration of petitions, from whatever source.

M. VAN ASBECK, referring to the programme of work, said that, in recent years, the Commission had always devoted more than two meetings to consideration of the reports on New Guinea and Tanganyika. That was not surprising in view of the fact that New Guinea was a territory in process of evolution, in regard to which serious issues arose, while Tanganyika was one of the most interesting of all the territories under the sovereignty or authorities of the British Empire, and in which experiments of every kind were in progress. He asked that more time should be allowed for the consideration, if necessary, of the two reports in question.

The CHAIRMAN observed that the programme of work was always sufficiently elastic to allow of the Commission devoting the necessary time to consideration of the different reports, with due regard to the exigencies of the accredited representatives.

Count DE PENHA GARCIA observed that he would be obliged to leave Geneva on June 22nd.

M. VAN ASBECK again urged that haste or over-crowding of the agenda should be avoided. The Commission's work was sufficiently important to justify the allocation of the necessary time for its satisfactory accomplishment.

*The agenda (Annex 2) and programme of work were adopted.*

(The Commission went into private session.)

**Syria and Lebanon : Question of the Adjournment to the Autumn Session of the Examination of the Annual Report for 1937 (continuation) : Petitions (continuation).**

The CHAIRMAN asked the Commission to express its opinion on the French Government's request to adjourn the examination of the annual report on Syria and Lebanon till next autumn. In his letter, the French Minister for Foreign Affairs made the following observation :

" This method of work, satisfactory as I find it in normal times, would seem to me to present serious disadvantages this year, when the countries concerned are in the middle of a process of political evolution calling for delicate adjustments which will, there is reason to hope, be effected. To address the Mandates Commission with less than the customary precision would be to depart from the policy followed by the French Government, a policy it desires to maintain, but to do so in a statement and in replies shortly afterwards to be published in the Minutes of the session would be to run the risk of making the work of the mandate as well as of the Syrian Government even more difficult in view of certain tendencies—of which you are aware—that must be taken into account."

Such were the reasons in support of the request that the examination of the report on the mandate for Syria and Lebanon should be withdrawn from the agenda of the present session.

There might obviously be a certain justification for this request, but it was for each one to do his duty, and, for his part, the Chairman thought it would be regrettable to postpone the examination of the report on Syria until the autumn.

Count DE PENHA GARCIA did not see how the Commission could ask to examine the report if it were not ready.

The CHAIRMAN pointed out that the French Government did not say that the report was not ready. It had not in fact been communicated to the Commission, as it should have been. The question was whether the Commission must bow to the request, without pointing out that it regretted such an adjournment.

M. RAPPARD asked whether it was possible to obtain more information regarding the reasons for the request.

M. DE HALLER said that he had no other information, either officially or semi-officially, than that contained in the French Government's letter. He only knew that M. de Caix had at first anticipated a certain delay in the despatch of the report for reasons connected with the printing. Subsequently, the French Government's letter of May 31st was received. As soon as that letter was received, M. de Haller pointed out semi-officially in Paris that the fact of requesting the adjournment did not exempt the mandatory Power, at any rate legally, from despatching its report ; this was, in theory, an obligation of which the Commission could not relieve the mandatory Power ; he therefore hoped that the report would reach the Commission, and that the latter would pronounce on the request for adjournment after seeing

the report. He had also had a conversation with the Chairman, whose impression was the same as his own and who instructed him to ask for confirmation in Paris on his behalf. He then learned that M. de Caix, in view of the request for adjournment, had not pressed on with the printing of the report ; this was explicable, since, if the report were not to be examined until the autumn, it was advisable not to publish it at present, in order to avoid having to supplement it before the autumn session.

Nevertheless, the competent department at the Ministry for Foreign Affairs had seemed struck by the observations submitted to it and had stated that it would notify M. de Caix thereof on his return.

Count DE PENHA GARCIA recalled that it was not the first time that a mandatory Power had not sent its report. In the present case, the French Government's letter seemed to him to be convincing as regards the request for adjournment. If the mandatory Power responsible for order in the territory said that it considered the moment unsuitable for examining the report, with the consequences entailed by such examination, he thought the Commission could not but accept that opinion, and that there would be no disadvantage in doing so. The mandatory Power was entitled to make such a request, and Count de Penha Garcia saw no reason why the Commission should insist.

M. GIRAUD thought it advisable to lay stress on the character of the arguments put forward by the French Government in its letter asking for the postponement, until the autumn session, of the discussion on the report concerning Syria and Lebanon. He thought that those arguments were worthy of his colleagues' attention.

Mlle. DANNEVIG presumed that, during the discussion with the accredited representative, the Commission might receive interesting information. She would be in favour of obtaining such information.

M. VAN ASBECK added that, during this discussion, a number of questions would arise which were not directly connected with the political situation.

M. PALACIOS supported the observations made by Count de Penha Garcia and M. Giraud ; he agreed that the Commission should defer to the French Government's request. There was, however, the question of petitions, which had been raised by M. Rappard. He thought that, when the petitions were examined, the accredited representative might be requested to appear and be asked for information regarding the position in Syria.

The CHAIRMAN understood that the Commission was in favour of requesting M. de Caix to come to Geneva to reply to various questions relating to the petitions. In the absence of the annual report, the Commission would also express the desire that the accredited representative might explain the present position in Syria and give the causes and circumstances which had made the French Government decide to request the adjournment of the examination of the report.

M. DE HALLER asked if this meant a decision by the Commission in accordance with the French Government's request.

The CHAIRMAN replied in the affirmative. The Commission did not insist that the report should be deposited at the present session. On the other hand, it wished the accredited representative to place himself at the disposal of the Commission under the conditions mentioned.

M. DE HALLER pointed out that the step proposed should take the form of a letter which the Commission would request the Secretary-General to address to the French Government in reply to its request for adjournment ; the terms of that letter should indicate the trend of the Commission's discussions. Moreover, the Commission could not request M. de Caix to appear before he had been appointed accredited representative by the mandatory Power.

M. VAN ASBECK agreed with the proposals made, on the understanding that the adjournment till the autumn should not recur, and that, even if the state of affairs had not improved in the meantime, there should be no further postponement.

The CHAIRMAN said this would be made clear to M. de Caix. A whole year could not pass without a report on Syria.

#### **Palestine : Question of Jewish Immigration and the Economic Absorptive Capacity of the Country.**

The CHAIRMAN wished to consult his colleagues on the advisability of raising a question regarding Palestine. He recalled the statements made by Mr. Ormsby-Gore at the thirty-second (extraordinary) session of the Mandates Commission, and by Mr. Eden in the Council, regarding the suspension of the application of the principle hitherto admitted—namely, that the volume of Jewish immigration authorised was determined by the economic absorptive

capacity of the country. The new rule adopted by the mandatory Government brought the number of Jewish immigrants to be admitted to the territory up to 1,000 per month, and was to be applied until March 31st, 1938. The Commission had noted this decision on the part of the mandatory Power and, in its observations to the Council, had not failed to point out that it was an exceptional and provisional measure. The United Kingdom Government had recognised this dual character of the decision and, at the meeting of the Council on September 14th, 1937, when M. Orts had represented the Mandates Commission, Mr. Eden had made the following observations<sup>1</sup> :

“ There was one point, however, to which reference should be made—namely, the important question of Jewish immigration in accordance with the terms of Article 6 of the mandate. The Mandates Commission had drawn attention to the reduction of Jewish immigration to a total of 8,000 persons in the next eight months. That, as the Commission recognised, was a purely temporary measure designed to meet temporary and exceptional conditions. If, as the Commission said, it were a departure from a principle sanctioned by the Council on a former occasion, Mr. Eden’s colleagues on the Council would, he was sure, appreciate the special circumstances in which that decision had been taken.

“ What was to happen at the end of the period of eight months—that was to say, after March 31st, 1938—must necessarily depend upon the progress made in the meanwhile with the partition scheme. If the scheme had, by that time, reached a stage of provisional acceptance, the whole question of immigration, as affecting both the Arab and the Jewish areas, would clearly have to be considered on a fresh basis. The matter was obviously an urgent one, and strengthened the desire of His Majesty’s Government to obtain the general authority of the Council to proceed on the lines he had already indicated.”

It was therefore anticipated that, at that time, the partition would be an accomplished fact and that the entire question of immigration would have to be reopened. But events had not borne out that anticipation. There was still some uncertainty, and the application of the principle of absorptive capacity had not been restored.

It should also be remembered that, on September 16th, 1937, the Council had adopted a resolution—which had to some extent perhaps been brought about by the representative of the Mandates Commission—concluding as follows :<sup>2</sup>

“ The Council . . .

“ Recalling the assurances given in that connection by the representative of the United Kingdom on the subject of immigration ;

“ And, while pointing out that the mandate of July 24th, 1922, remains in force until such time as it may be otherwise decided, defers consideration of the substance of the question until the Council is in a position to deal with it as a whole, and in the meantime entirely reserves its opinion and its decision.”

The Council accordingly endorsed two observations by the Mandates Commission—namely (1) that the restrictions on immigration were exceptional and provisional ; (2) that it must always be borne in mind that, so long as the mandate had not been modified or replaced by another, the present mandate continued, with all that that implied, in particular, in respect of the rules regarding immigration.

Since the application of those rules had not been restored, the question of expediency on which the Chairman wished to consult his colleagues was whether it should not be pointed out that those rules should be re-established. No doubt the mandatory Power could reply that the circumstances which had determined the suspension of the application of the rules still remained, but such a position might continue indefinitely. In any case, if the Commission raised the question, that would be a means of compelling the accredited representative to make a statement on the whole problem.

M. PALACIOS thought the question of immigration was the crucial point of the mandate for Palestine, and it was this problem that made the present mandate definitely unworkable, as stated by the Government of the United Kingdom.

The CHAIRMAN agreed, but wondered whether the Commission should not point out that the mandate continued to apply, with all its consequences.

Mlle. DANNEVIG thought the accredited representative might maintain that, under present circumstances, the economic absorptive capacity of the country was not such as to permit of increased Jewish immigration. Under these circumstances, the Commission might point out that the terms of the mandate nevertheless existed, and that it was its duty to ascertain whether the principle was maintained.

<sup>1</sup> See *Official Journal*, December 1937, page 902.

<sup>2</sup> *Ibid.*, page 907.

M. VAN ASBECK thought the problem was of an even more general nature. It was clear that the Royal Commission supposed that the decisions regarding partition would be enforced at a fairly early date, and it had recommended a whole series of provisional measures. But what had actually happened was well known. The period now reached was not the transitional one mentioned by the Royal Commission, but a period of uncertainty and suspension, during which the mandate was not being fully applied and the partition plan had not been adopted. In those circumstances, it was difficult to give an opinion on the administration of the mandate on the basis of the report. It would therefore be necessary to raise, as it were, a preliminary question and ask the representative of the mandatory Power what the latter proposed to do during the present period of uncertainty and suspension.

The present period was likely to last for a long time to come. A second commission had just been sent out in order to prepare a technical report ; that report would then have to be studied in London, a proposal would have to be made by the mandatory Government and studied by the Mandates Commission, and, lastly, the Council would have to take a decision. What was important, therefore, was to endeavour to ascertain the intentions of the mandatory Power during the present period.

The CHAIRMAN said the question which he proposed to raise would give an opportunity of asking for explanations of that kind, and he requested his colleagues to say whether they thought it advisable to put the question in the following manner : The mandate continued ; as regards immigration, in particular, the rules hitherto applied were confirmed ; the mandatory Power had asked to suspend them as an exceptional measure, while making the statements known to the Commission which it had been unable to keep ; the decisions which it had taken were valid until March 31st, 1938 ; the Mandates Commission expected the necessary explanations from the mandatory Power. Whatever reply was given, the essential point for the Commission was not to allow a repudiation of the mandate, with all its consequences, to pass without notice.

M. PALACIOS agreed as to the question to be put, but not as to the observation to be made subsequently ; it was unnecessary to anticipate on that point.

Count DE PENHA GARCIA said that there was obviously no harm in putting this question, but the Commission should not give the impression that it was unaware of what was happening. At the present moment, the mandate was in force, but only in respect of the authority of the mandatory Power, with certain restrictions of a provisional character.

Mlle. DANNEVIG thought it might perhaps be possible to put the question in the following way : the first duty of the mandatory Power was to maintain order ; in spite of police and military intervention, no appeasement was noticeable in many districts. Under those circumstances, what could be done to improve the situation ? For some time past, the number of troops had been decreased ; the disturbances, however, had continued and, lately, the Arab terrorists were killing moderate Arabs as well as Jews.

The CHAIRMAN said the Commission would approach the question in a spirit free from any preconceived idea, would hear the explanations furnished, and would then see if it had any observations to make, in particular, as regards the point raised by Mlle. Dannevig. For the moment, the Commission reserved its opinion.

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## SECOND MEETING.

*Held on Wednesday, June 8th, 1938, at 4 p.m.*

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### **Nauru : Examination of the Annual Report for 1937.**

Major Fuhrman, accredited representative of the mandatory Power, came to the table of the Commission.

#### WELCOME TO THE ACCREDITED REPRESENTATIVE.

The CHAIRMAN welcomed the accredited representative, with whom the Commission was glad to have a further opportunity of collaborating in the examination of the annual report.

#### COMMUNICATION TO THE COMMISSION OF AN ALBUM OF PHOTOGRAPHS.

The CHAIRMAN asked the accredited representative whether he had any general observations to make.

Major FUHRMAN thanked the Chairman for his welcome and said that he did not desire to make any general statement, but he wished to lodge with the Commission an album of photographs which he had received from the Administrator. The photographs depicted many phases of life on Nauru, and from them could be gathered an excellent impression of the natives and of their happiness, prosperity and general advancement. He suggested that it might be appropriate if members of the Commission could find time to look at the photographs during the course of the examination of the report. They would be found most interesting, and might well be regarded as a valuable supplement to the report.

#### FORM OF ANNUAL REPORT.

M. GIRAUD asked whether more explicit references to previous reports could not be given, so as to facilitate the study of particular subjects.

Major FUHRMAN noted this request.

#### ADVISORY COUNCIL OF CHIEFS : QUESTION OF THE TRAINING OF NAURUANS WITH A VIEW TO THEIR PARTICIPATION IN THE ADMINISTRATION OF THE NAURUAN ROYALTY TRUST FUND AND IN OTHER ADMINISTRATIVE ACTIVITIES.

M. VAN ASBECK was grateful for the information furnished on page 51 of the annual report with regard to the Advisory Council of Chiefs, which met regularly to discuss matters affecting the welfare of the native community.

He noted that the Nauruans, however, did not share in the administration of the Nauruan Royalty Trust Fund. On the other hand, a young Nauruan man who had been educated in Australia was a member of the newly formed Native Education Committee (page 33 of the report). If there were some Nauruans sufficiently advanced to receive education in Australia, could not such educated natives participate more fully—even if only in an *advisory* capacity—in the administration of the territory, particularly in financial matters, including the administration of the Trust Fund? Discussion of matters concerning general welfare only became concrete and realistic, it seemed, when put into the frame of finance.

Major FUHRMAN did not think the young Nauruan, who was educated in Australia, would be sufficiently mature or have the necessary technical knowledge or training to be entrusted with the administration of public funds. Nauruans were gradually being placed in subordinate administrative posts, as they became educated and fitted for the acceptance of responsibility. The time was not ripe, however, for them to act in an administrative advisory capacity. Account would doubtless be taken of any recommendations put forward by the Advisory Council of Chiefs concerning the administration of the Trust Fund.

Mlle. DANNEVIG thought that the possibility of utilising the services of young educated Nauruans in the manner suggested would depend on the type of education provided. According to pages 7 and 17 of the report, they went to the technical school, Geelong, for special training, but perhaps did not continue their general education.

Major FUHRMAN thought the curriculum included some academic work, but the main object in sending Nauruan boys to a technical school was to teach them handicrafts and to fit them for occupations which they would normally follow on return to the island. It would be unwise to lay down for the youth of Nauru a course of study for scholastic or clerical careers, when sufficient suitable openings in those capacities were not available. Rather than concentrate on the teaching of subjects of a more or less academic nature, it appeared more practical, at this juncture, to give them a sound technical training.

M. VAN ASBECK asked whether the expression "welfare of the community" could be taken to cover financial matters (page 51 of the report).

Major FUHRMAN replied that the term would include social, moral and material welfare—not specifically financial matters.

M. VAN ASBECK asked if information could be supplied in the next report as to the type of education provided for Nauruans in Australia, the part played by the Advisory Council of Chiefs in financial affairs and the effect on the administration of the Trust Fund of opinions expressed in the Council.

#### THE AGREEMENT BETWEEN THE NAURUAN LANDOWNERS AND THE BRITISH PHOSPHATE COMMISSIONERS : RELATIONS BETWEEN THE VARIOUS ELEMENTS RESIDING IN THE TERRITORY : QUESTION OF A REGULAR SYSTEM OF INSPECTION.

M. VAN ASBECK and M. RAPPARD drew attention to an article in the *Pacific Islands Monthly*, of April 22nd, 1938, entitled "Pleasant Island".

Major FURHMAN said that the attention of the mandatory Power had been drawn to the allegations contained in the article mentioned. He proposed to deal seriatim with those charges. In the first place, the present Agreement between the Nauruan landowners and the British Phosphate Commissioners, which was concluded in 1927, provided for the payment of a royalty of  $7\frac{1}{2}d.$  per ton of phosphate exported. Fourpence of that sum was paid to the Nauruan landowners concerned,  $1\frac{1}{2}d.$  per ton to the Administration to be used solely for the benefit of the Nauruans, and  $2d.$  per ton to the Administration to be held in trust for the landowners and invested. The Agreement provided that the rates should have effect for a period not exceeding twenty years from July 1st, 1927, but the royalty of  $4d.$ —that was to say, the portion of the  $7\frac{1}{2}d.$  paid direct to the Nauruan landowners—should be adjusted every five years by increasing or decreasing it *pro rata* to any increase or decrease in the f.o.b. price of Nauru phosphate. In accordance with that provision, the royalty payable to the Nauruan landowners from July 1st, 1937, was  $1\frac{3}{4}d.$  per ton, but the British Phosphate Commissioners, His Majesty's Government in the Commonwealth of Australia and the Administration did not consider that an equitable payment. The British Phosphate Commissioners intimated a willingness to agree to a variation of the Agreement, which would provide for its extension from 1947 to 1967 and for the payment of a minimum royalty of  $4d.$  per ton and a maximum royalty of  $6d.$  per ton. That proposal was not acceptable to the Nauruans, who asked for  $4d.$  per ton for the first ten years and  $6d.$  per ton thereafter, with certain other additional payments. Major Fuhrman said that his latest despatch from Australia was dated May 23rd, when he was advised that a basis of agreement had not then been reached. Discussions were, however, proceeding, with a view to arriving at a solution acceptable to all parties concerned.

With regard to the second series of allegations in the article under notice, His Majesty's Government in the Commonwealth of Australia had not received any evidence that would support the statement of friction existing at Nauru between officers of the Administration and the British Phosphate Commissioners' staff, or between Europeans and the native inhabitants of the island. The Administrator had informed the responsible Minister of the Australian Government that, with the exception of certain internal differences between himself and two European officers of the Administration staff, excellent relations existed between all parties on the island, the affairs of which were perfectly satisfactory.

M. RAPPARD presumed the next report would contain fuller information about the negotiations between the local population and the Phosphate Commissioners—a matter of fundamental importance for the future of the island.

He found it difficult to reconcile the statement that the Nauruans were not sufficiently advanced to share, even in an advisory capacity, in the local administration of the territory with the fact that they were negotiating about the amount of royalty payable ten to fifteen years hence.

As to friction inside the Administration, the effect would be more disastrous in a small territory like Nauru than in a territory with a large administrative staff. If the Administrator himself thought the matter of sufficient importance to be mentioned in despatches, the situation surely called for a remedy.

Major FUHRMAN assured the Commission that the differences between the Administrator and the two European officers of the administrative staff were purely internal. In the interests of discipline, an endeavour would naturally be made to confine the knowledge of those differences to a very limited number of persons. The subordinate officers concerned were no longer in the service of the Administration.

The fact that the Nauruan landowners were pressing for a higher royalty might seem inconsistent with his statement—which he still maintained—that the Nauruans were not sufficiently advanced to share in the administration of the Trust Fund, but an explanation would be found in the fact that each landowner was personally concerned about the amount of the royalty which, as an individual, he would receive, and his vision was naturally limited to his own prospective financial position. The collective view of the Nauruan landowners, in their negotiations with the British Phosphate Commissioners, would be expressed by the Administrator, who would act for and on their behalf.

M. VAN ASBECK asked whether the objections of the Nauruans to the present royalty agreement had been voiced in the Advisory Council of Chiefs.

Major FUHRMAN had no direct information on that point ; but as the question was one of prime importance to every Nauruan, it doubtless would be discussed. He presumed the present negotiations would be conducted by the Administrator, with the advice of the Advisory Council of Chiefs on the one hand, and the British Phosphate Commissioners, on the other.



M. GIRAUD asked whether the mandatory Power did not exercise any supervision over the administration of the island by means, in particular, of inspectors or special officials. If so, would it not have seemed indicated to send someone to the island to investigate the causes of friction in the Administration ?

Major FUHRMAN said that this was a question of policy upon which he had not been instructed. He did not think, however, that, as a matter of policy or routine, regular visits of inspection to a small and inaccessible island like Nauru would be considered necessary or practicable.

Referring to the incident under notice, Major Fuhrman said that to have sent an investigating authority to Nauru specifically for the purpose of enquiring into and, if possible, settling what was only a minor departmental difference between the Administrator and two of his subordinates might conceivably have lessened the Administrator's prestige and authority on the island. The matter had been verbally reported by the Administrator to the responsible Minister of the mandatory Power, which, apparently, had not considered the incident sufficiently important to justify an examination on the spot.

The CHAIRMAN asked whether the administration of the island was never inspected on the spot ; such inspections took place in nearly all colonial territories.

Major FUHRMAN said the affairs of Nauru had followed such an even course since the inception of the mandate that the necessity for supervision by means of inspection had never arisen. So far as Nauru was concerned, the mandatory Power did not consider a regular system of inspection either necessary or practicable.

#### PERIOD OF SERVICE OF OFFICIALS IN THE TERRITORY.

The CHAIRMAN asked whether there was a fixed period of service for officials of the Administration.

Major FUHRMAN said the first Administrator—General Griffiths—stayed six years. The present Administrator had been in the Territory since 1933, and with the concurrence of the partner Governments his appointment had been prolonged to June 1938, and would be prolonged further to August.

The CHAIRMAN presumed the officials returned to their own country from time to time.

Major FUHRMAN thought they did, though not, as a matter of course, every year.

The CHAIRMAN felt that an uninterrupted stay within the confined limits of the island, which was small and isolated, must, in the end, be prejudicial to those who had to live there.

Major FUHRMAN believed that the climate was equable and that conditions of life on the island were very pleasant.

#### PROBABLE DURATION OF THE PHOSPHATE DEPOSITS : QUESTION OF CULTIVATING WORKED-OUT LAND : DEVELOPMENT OF THE FOOD SUPPLY.

M. RAPPARD pointed out that the Commission had asked in 1937<sup>1</sup> for an estimate of the duration of the phosphate deposits. It was stated in the report (page 50) that " A re-survey of the island has disclosed that its area is 5,263 acres (not 5,400, as previously recorded), of which 3,542 acres are classed as phosphate-bearing land, 985 acres as coco-nut land, and 736 acres as other land ". But that was not the point. What was wanted was an estimate of how long the deposits would last at the present rate of extraction. The question had a direct and immediate bearing on the financial administration. The policy was, he took it, to accumulate individual and public savings for the benefit of the natives, so that they would be provided for when the deposits were exhausted.

Major FUHRMAN said he thought that any attempt to estimate the life of the phosphate deposits would be pure speculation. Such calculations, even if possible, would have to take account of two unknown and indeterminable factors—namely, the depth of the deposits and the future demand for this commodity.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 50 and 51.

In 1928, a former Administrator, basing his calculations on the output of phosphates in that year, when the area of phosphate-bearing land was thought to be 4,200 acres, estimated the life of the deposits at 300 years. In 1937, a re-survey of the island disclosed that only 3,542 acres could be classed as phosphate-bearing. If the calculations in 1928 were accepted as correct and allowing for a 16% error in acreage of the phosphate fields at that time, it might be assumed that the life of the deposits would be from 230 to 240 years.

M. RAPPARD imagined that the Nauruans, who had become accustomed to a certain standard of comfort, would be reduced to extreme poverty if the deposits gave out, or if chemical research led to the discovery of substitutes. Everything was to be gained by accumulating savings which could be invested—and would therefore not be lost—to meet all possible contingencies.

Major FUHRMAN said he would deal later with the question of the Nauruans' prospective means of subsistence in the future. Every effort was made to conserve revenue, and it was a matter of satisfaction to the mandatory Power that funds totalling £54,509 had been accumulated since the inception of the mandate; 46% of the indigenous population, as compared with 42½% in 1936, were savings bank depositors with credits amounting to £19,434. This represented a *per capita* deposit of £25 8s. 9d.

M. VAN ASBECK noted from page 12 of the report that exports of phosphates were steadily increasing year by year. What was the total acreage of worked-out land? It would be easier to form some idea of the approximate duration of the phosphates, if the total area of already worked-out land could be compared with the yearly output of phosphates.

Major FUHRMAN said that 110 acres of phosphate deposits had been entirely worked out and the land returned to native owners. On December 31st, 1937, 1,002 acres were held under lease by the British Phosphate Commissioners and, of those 1,002 acres, 237 acres had been worked out but had not yet been returned to the natives. The actual acreage being worked at the moment was 765 acres.

Mlle. DANNEVIG asked whether worked-out land could be used for the cultivation of coco-nuts, etc.

Major FUHRMAN said he did not think the land could be so used at present. The phosphate area was waterless, uninhabited and little used by the Nauruans. The mining of this area was therefore of the greatest benefit to the Nauruans, providing them with a valuable insurance in regard to the future of their race—an insurance which increased in direct proportion to any increase in the rate of mining.

The CHAIRMAN asked whether worked-out land was permanently unsuited for cultivation of any kind.

Major FUHRMAN said his information on that point was not very recent, but he was informed about two years ago that it had not been found practicable, at that time, to attempt to put the worked-out fields in a fit state for agriculture. That would probably come about in the course of time by plant recolonisation—a process which, he understood, was in progress.

M. VAN ASBECK, referring to information given on page 50 of the report, asked whether any steps were being taken to speed up the process of recolonisation by plant life by artificial means. Imports of provisions were so high that the matter would seem to be urgent, as had already been hinted at the thirty-first session of the Commission. <sup>1</sup>

Major FUHRMAN, in replying to M. van Asbeck and an earlier question by M. Rappard, said there was no danger of the natives being deprived of their means of existence if and when the phosphate deposits became exhausted, and he gave the Commission information concerning the main prospective means of subsistence in the near future. He explained that, on an island where there was no permanent water and a most uncertain rainfall and where the soil was most unfavourable to cultivation, the production of food crops, as the term was usually understood, was practically impossible. Attempts had been made, within the past few years, to produce sweet potatoes; but those attempts had not been encouraging. The planting of fruit gardens for the raising of paw paw, citrus, pineapple and banana was possible, and was encouraged for the specific purpose of furthering the health of the natives, as those fruits were considered most beneficial.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 51.

Major Fuhrman then dealt with the natural food supplies—namely, the growing of coconuts and of the pandanus palm, fishing, the raising of pigs and poultry and the growing of bread fruit, mangoes, etc.

With regard to the growing of the coco-nut, he explained that, on Nauru, there was ample acreage of coco-nut land to provide Ekarawe and coco-nut meat for a far larger population than at present on the island, and for the provision of a fair surplus of coco-nuts for feeding pigs and for export as copra. In connection with the latter commodity, there was an export some few years previously, under unscientific methods of cultivation, of 383 tons of high-quality copra in one year. There could be no doubt that, with the growing of coco-nuts on scientific lines, which was gradually being introduced, the export of copra could be increased considerably. The pandanus palm was a most valuable food plant which flourished in Nauru, and an extensive planting plan of that palm was in progress.

Major Fuhrman then referred to fish, which he understood was a staple article of native diet. There had been a great revival in fishing in the last few years—a revival which had brought about an increase in the number of canoes, and which had stimulated the enthusiasm of the young boys to take part in fishing. He understood that fish, of proved scientific value as food, abounded in the vicinity of Nauru at different seasons of the year. Furthermore, it had been found desirable to encourage increased fishing, owing to the heavy demand, and good prices paid by the Chinese labourers, for that article of diet. He pointed out that the absence of the Chinese, if and when the phosphate fields were worked out, would leave an abundance of fish at most periods of the year for consumption by the native population.

Pigs and poultry were supported by the coco-nut belt and formed a valuable addition to the native diet, as did also bread fruit and mango, the planting of which played an important part in the agricultural policy of the Administration.

COUNT DE PENHA GARCIA thought the situation could be summed up more or less as follows. Nauru was a small island, almost unknown, with a native population living in a savage state but nevertheless able to provide for its needs. Phosphate deposits were then discovered : whereupon a number of foreigners arrived—in larger numbers perhaps than the native population—upsetting the balance as between population and food supply. The natives were deprived of some of their territory ; and twice the original population had to be fed from the natural resources of the island.

Only one-fifth of the land was at present devoted to the phosphate industry. There remained four-fifths, which might, at least in part, be made more productive. Indeed, the mandatory Power was now considering means of improving agricultural production, encouraging poultry breeding, fishing and so on.

How was the non-phosphate-bearing land allotted to the natives ?

Major FUHRMAN said that the term " savage " would be misapplied if used to describe the Nauruans at the time when the mandatory Power assumed control of Nauru. It was admitted that they were a backward race in 1920, but to-day could well be regarded as a highly intelligent native community whose social, moral and material welfare was being advanced with the passing of every year. It was true that the discovery of phosphate led to an importation of foreign labour, which did not, as Count de Penha Garcia suggested, outnumber the indigenous population. The figures to-day were : total Nauruan population, 1,658 ; total Chinese—the foreign labour referred to—1,261. Never, at any time, had the Chinese exceeded the Nauruans in number. The arrival of the Chinese did not, as was stated, upset the balance as between indigenous population and the food supply. Furthermore, the natives were not deprived of territory which was of any use to them, nor had twice the original population to be fed from the natural resources of the island. These were misapprehensions which it appeared desirable to correct.

The facts were that the food supply for the imported Chinese labour—namely, rice (including beans), meat or fish (fresh or preserved) and vegetables, either fresh or preserved—was imported and supplied free to those labourers by the British Phosphate Commission. The possible exception to the import of the foods mentioned might be fresh fish, which abounded in the vicinity of Nauru and which were caught by the Nauruans and sold to the Chinese. The catching of fish could not be regarded as depleting the natural food resources of the island. With the mining of the phosphate deposits, the natives were not deprived of territory that was of any use to them, for the phosphate area was waterless, uninhabited and little used by the Nauruans. Major Fuhrman was afraid Count de Penha Garcia was in error in saying that one-fifth of the island was devoted to the phosphate industry and that there remained four-fifths which might be made more productive. The area of the island was 5,263 acres, of which 3,542 were phosphate-bearing land ; 985 acres, coco-nut land ; and 736 acres, comprising slopes towards the interior and the high area of the island, which were not cultivable.

Major Fuhrman said that the Nauruans were immeasurably more prosperous to-day than they were twenty years ago. He had, he thought, made that clear when, in a reply to Mlle. Dannevig, he pointed out that the mining of the phosphate area was of the greatest benefit

to the Nauruans, providing them with a valuable insurance in regard to the future of their race—an insurance which increased in direct proportion to any increase in the rate of mining.

In reply to Count de Penha Garcia's last question concerning the allocation of non-phosphate-bearing land to natives, he said that the system of land tenure was governed by old tribal customs dating back very many years. Some time ago a Lands Committee, consisting of the Deputy Head Chief and four of the older chiefs, investigated matters relating to boundaries and ownership of land. The island had been surveyed, and certificates of title issued to the owner of each portion of land defining the boundaries and affording documentary proof of ownership.

Count DE PENHA GARCIA said the position was still a little vague. The report did not state whether all phosphate-bearing land could be used for agricultural purposes or not. On a former occasion, the Commission was told that there were no forests in the strict sense, but many trees; and that, indeed, was clear from the photographs shown to the Commission. It therefore seemed possible to plant trees to increase the food supply. Would it not be desirable for the Administration to intervene, in order to increase the productivity of the land? Certain colonial Powers had had to take steps to increase the food supply of natives, advising or even ordering them to cultivate certain crops. It seemed to him that there might be defects in the land-tenure system which called for consideration. For example, very large quantities of preserved foods were imported, and, while that might be satisfactory to exporters, the welfare of the natives from the economic and health aspects should also be borne in mind.

Major FUHRMAN said everything possible was being done to induce the natives to embark on an agricultural policy. It was still an open question whether worked-out land could be made fit for cultivation.

The agricultural policy described on page 18 of the present report, and on the same pages in the reports for 1935 and 1936, showed that a great deal was being done in the direction of ensuring a future supply of natural food.

Count DE PENHA GARCIA said that the main object of his remarks was to draw the mandatory Power's attention to the importance of the question.

#### IMPORTS AND EXPORTS.

M. GIRAUD noted that the general economic situation was satisfactory. Exports of phosphates had increased considerably. Indeed, every year proved to be a record year.

He asked for an explanation of the difference between shipments of phosphates, 1,007,990 tons (page 37 of the report), and exports, 688,900 tons (page 12), which would seem to be too great, even allowing for the fact that shipments were for the year ended June 30th, 1937, and exports for the calendar year 1937.

Major FUHRMAN pointed out that shipments covered both Nauru and Ocean Island. The export of phosphate from both those islands was under the control of the same Commissioners.

M. GIRAUD asked why imports had fallen steadily from 1935 to 1937, when exports were continually on the increase.

Major FUHRMAN pointed out that the figures for imports had no relation to the administrative finance figures, except in so far as import duty was paid. The drop of roughly £10,000 in imports during 1937 was due almost entirely to a reduction in the import of hardware and machinery.

It would be noticed also that imports of coal and coke had fallen from £13,384 in 1936 to £3,767 in 1937, while at the same time imports of oil fuel had increased from £6,204 to £14,589 (page 11 of the report). He was informed that the variation in these figures was due to a change-over from coal- to oil-burning machinery. The machinery was imported in some previous year, and this might possibly account for the drop in imports of hardware and machinery in 1937.

M. GIRAUD noted that, although the accredited representative had referred to the possibility of increasing copra exports, no copra was exported during the year under review.

Major FUHRMAN said his information was that the natives were not very interested in the production of copra at the moment, but the Administration had under consideration the possibility of stimulating that interest.

## JUDICIAL ORGANISATION.

M. VAN ASBECK asked whether the accredited representative had any comments to make on the increase in the total number of convictions in 1937, especially for breaches of the Cleaning of Lands and Leprosy Suppression Ordinances.

Major FUHRMAN said that serious crime was unknown in Nauru. In consequence, no importance was attached to variations in minor crime from year to year and in the convictions recorded for petty offences. In 1937, it was found that a number of natives were becoming careless in regard to attendance at the Leper Clinic. The same indifference was being shown by a number in attending school and in regard to cleaning of land. A general tightening up of discipline in respect of such matters led to an increase of convictions for those and other minor offences. He drew the attention of the Commission to the fact that no cases were brought before the Central Court, which was an indication of the absence of serious crime.

## WELL-BEING AND SOCIAL DEVELOPMENT OF THE NATIVES : EMPLOYMENT OF EDUCATED NATIVES IN THE ADMINISTRATION OF NATIVE AFFAIRS.

Mlle. DANNEVIG said it was difficult to form any idea as to the social condition of the natives. On the one hand, economic conditions were favourable, and the island was very rich. On the other hand, the health of the population was unsatisfactory. The death rate was higher in 1937 than for many years past. The infant mortality rate, in particular, was very high. The Mandates Commission was told that enough food could be produced on the island, and that a Commission had been set up to study the food supply; yet large quantities of artificial food had to be imported.

Major FUHRMAN said the Administration was of opinion that, while the natural food supply might be sufficient, it was possible to improve the nutritive value of the food consumed. The high infant mortality rate was a matter of very deep regret to the mandatory Power and to the Administration; but he would point out that of the nineteen infants who died during the year, four deaths were due to pneumonia, two to premature birth, one to severe burns and nine to beri-beri, a most difficult disease to eradicate.

Mlle. DANNEVIG said it was also difficult to form any idea as to the part played by the natives in the life of the island. They were said to be backward, and yet an elaborate educational system was provided, some Nauruans even going to Australia to complete their education. What was the routine of their daily lives? What work did they do? Her own impression was that they led "butterfly lives", so to speak. The post-primary education provided for girls (page 37 of the report) was most elaborate, covering social studies and elementary physiology and hygiene. What was the ultimate result?

Major FUHRMAN said that many of the Nauruan women were doubtless engaged in household duties. Of the 864 males, about 600 would be adults, some of whom would be too old to work. No doubt the remainder followed the ordinary occupations of the island, such as fishing and farming, coco-nut-growing, tending vegetable crops, poultry raising, pig-farming and so on. Fishing was becoming an important industry on account of the demand by the Chinese for fish, for which good prices were paid.

M. PALACIOS pointed out that the chapter entitled "Labour and Industry" (page 19 of the report) did not deal with native labour; it only referred to the employment of foreigners, chiefly Chinese, imported into the territory. Certain comments made by M. Rappard and Major Fuhrman also gave the impression that the natives did not work and that in so far as they voluntarily engaged in activities of an economic character, they did so—being apparently in no need of employment—as a hobby. Were there no natives of the territory who worked either for their own account or for a wage?

Major FUHRMAN said that, as pointed out by M. Rappard in 1936, there was really no need for the natives to work at all. They received a very substantial income by way of rent for phosphate-bearing land and their future was assured in consequence of a percentage of that income being held in trust for the landowner by the Administrator and being invested for twenty years at compound interest.

In no case was a Nauruan forced to work. When Nauruans undertook employment, they were employed by the day, week or month, as the case might be, and were paid for their services at recognised rates. The natives were encouraged to accept employment if, in the opinion of the Administration, the work was suitable. The usual rate of wage for Nauruans

employed on unskilled work, other than domestic service, ranged from £3 to £4 per month without food and lodging; for skilled and semi-skilled labour, considerably higher rates were paid—the minimum being £5 per month. For domestic service, approximately £3 per month was paid.

Comparatively important posts held by natives were: fifteen Chiefs of Districts with certain delegated powers; on the Administration Secretariat—two on accounts, one on secretarial duties, one storekeeper and one interpreter; all senior non-commissioned officers of police were Nauruans; there were three Nauruan medical assistants; a wireless operator; a postmaster and assistant; one survey draftsman and five head teachers.

#### MISSIONS.

M. PALACIOS was grateful for the information concerning the missions and their activities in the territory given on pages 33, 34 and 51 of the report.

The information was, however, somewhat summary. It did not cover the question of the influence of the missions. It was stated on page 33 that the enrolment at the Sacred Heart school was 53.7. What was meant by that figure? Was the syllabus at the Sacred Heart school the same as the syllabus of the other primary schools in the territory, or did it contain special features due to the connection of the school with the mission? Were many pupils educated there?

Major FUHRMAN said that until 1923 secular education was conducted by two missionary societies—the London Missionary Society and the Mission of the Sacred Heart. They provided education in small schools to a limited number of pupils. In 1923, the Administration formulated a free and compulsory education policy; and when, in 1923, the Administration opened Government schools, all secular education was, with the consent of both missions, conducted in those schools. Recently, the Mission of the Sacred Heart had applied for permission to reopen a school, and to that request the Administration had agreed. That school was a registered school and was governed by the Compulsory Education Ordinance, which applied to all registered schools in the territory.

Major Fuhrman had no details as to the staff of the school and was unable to explain the figure 53.7 on page 33 of the report.

#### EDUCATION.

Mlle. DANNEVIG had read with the greatest interest the report of Mr. Groves, Director of Education, on the revision of the educational programme (pages 33-37 of the report). She asked whether she was right in assuming that the new programme would be at least partially applied as from the present year (see Conclusion, page 37 of the report)?

Major FUHRMAN replied in the affirmative.

Mlle. DANNEVIG noted that the salaries of native teachers were rather modest. She presumed that they were sufficient to allow the teachers to devote themselves entirely to their vocation, and were not so low as to necessitate supplementary work.

She asked what were the Nauruan "string figures" referred to on page 17 of the report, which were said to be the best in the world.

Major FUHRMAN said he had no information as to what Nauruan "string figures" were, but he would ask for particulars to be included in the next report.

#### LABOUR.

The CHAIRMAN, speaking on behalf of Mr. Weaver, who was detained at the International Labour Conference, noted that information about the Chinese labour situation was given on pages 19 and 20 of the report and also on pages 51 and 52, which contained replies to questions asked at the thirty-first session of the Commission. The Commission would no doubt wish to thank the mandatory Power for those replies.

He desired, in the first place, to call attention to the "Specimen list of offences and punishments during the year 1937" on page 51. Criminal penalties for various labour offences were, of course, provided for in the Chinese and Native Labour Ordinance, 1922. The punishments inflicted, however, seemed in some cases to be very heavy. It would be interesting to know whether, for instance, such punishments as hard labour for fourteen days for absence from work without permission and disobedience of orders were inflicted on first offenders or only on labourers who had repeatedly offended, and whether the court dealt more leniently with first offenders.

Major FUHRMAN said he felt sure that, in sentencing Chinese labourers for breaches of the Labour Ordinance, the court took into consideration all relevant factors such as, for example, first offences. Furthermore, he thought that, in the majority of cases, overseers would doubtless

have previously cautioned offenders before bringing them to court. He pointed out that, in the handling of a foreign male labour community of 1,245 on a small and isolated island like Nauru, where there was an indigenous adult male population, including old people, of about 500 and where there was no military garrison and a police force of only thirty-five or so, disciplinary measures, when such were necessary, had to be taken promptly and, in their severity, had to be effective deterrents to the further commission of offences. It would not otherwise be possible to maintain discipline.

The CHAIRMAN said that paragraph (c) on page 52 of the report contained interesting information about accidents. It was gratifying to note that provision was made for accident compensation. The amount of compensation paid (a) to labourers whose incapacity as the result of accidents was such that they were unable to resume work and (b) to the families of labourers who lost their lives as a result of accidents while at work was, in both cases, a sum equal to wages for one year. That sum, however, was much lower than was usually provided for in either European or colonial workmen's compensation laws; and he would be glad to know on what principle the amount paid was fixed at wages for one year, and whether any consideration had been given to the question of increasing the amount in cases of total incapacity or death.

Major FUHRMAN said he had no knowledge of the considerations which determined the amount of compensation to be paid in the case of incapacity or death of a Chinese labourer. He would ask for the information to be included in the next report, if that course were agreeable to Mr. Weaver.

The CHAIRMAN said Mr. Weaver was grateful for the information on wages given in paragraph (d) on page 52, of the report, and was glad to note that the labourers were able to save a substantial proportion of their wages, as was seen from the large sum remitted to families in China—namely, over £22,000 in 1937.

#### CO-OPERATIVE SOCIETIES.

M. PALACIOS observed that the only allusion to the natives of Nauru in the chapter on "Labour" was at the top of page 20 of the report, where a reference was made to the Native Co-operative Societies Ordinance, 1935. The work done in that connection seemed to be satisfactory, but it appeared that the natives took part in the Nauru Co-operative Society in the guise of consumers rather than producers. Was that really the position?

Major FUHRMAN said the Nauru Co-operative Society was founded in 1922 with a capital of £800 subscribed entirely by Nauruans. It was administered by a Committee appointed periodically by the Nauruan Advisory Council from its own members, with a European adviser—a member of the Administration Staff appointed by the Administrator to act as liaison officer between the Administrator and the society. The duties of the Adviser included the training of chiefs and of the staff of the society in business management and policy.

The ideal of the society was service to the Nauruan people, and that ideal was being realised, directly and indirectly, in many ways, but in particular by retailing, through the society's general store, certain essential commodities at practically cost price; by the retailing generally of goods, at the lowest possible price; by purchasing copra from the Nauruans, when it was available for purchase, at the highest possible rates; by making free issues of certain commodities to aged and infirm Nauruans; and also by apportioning part of the yearly profits for native works or services for the collective benefit of the Nauruan population. Each member of the society's staff was a Nauruan, and a portion of the yearly profits from the concern was allocated to a Trust Fund for the purpose of sending Nauruan boys to Australia for business training.

M. PALACIOS thanked the accredited representative for this interesting information.

#### ALCOHOL AND SPIRITS.

The CHAIRMAN noted that the import duty on spirits and drink in general had been reduced considerably as from July 1st, 1937 (page 20 of the report); he asked what was the reason for that reduction.

Was it the reduction in import duties that had led to an increase in imports by comparison with previous years?

Major FUHRMAN said that, with regard to the reduction in duty on spirits and alcoholic liquors, it was considered that the general prosperity of the territory justified a reduction in the duty on those commodities. He was unable to say whether the increase in imports was due to that reduction. He would obtain information with regard to the Chairman's other questions.

PUBLIC HEALTH.

Count DE PENHA GARCIA noted that the report contained a very interesting account of the studies of the expert appointed by the mandatory Power to consider the very serious public health problems of the territory (pages 13 and 27 of the report). This expert—Professor Harvey Sutton—had made many suggestions and observations ; but they must be taken only as a starting-point. The results of his visit could not be estimated as yet. At the same time, despite the mandatory Power's efforts, the death rate (including the infant mortality rate) had increased considerably. It must not be forgotten, of course, that, as the figures were low, their absolute importance might not be very significant. Yet, even so, the increase seemed large, since the figures for 1928, 1929 and 1930 were only 18, 26 and 29, as compared with 48, 46 and 50 in recent years (page 33 of the report). It seemed that the greater the attention given to health problems, the greater the increase in the death rate.

Count de Penha Garcia did not propose to ask the accredited representative for any explanations, since the question was being examined. He would like full information in the next report, however, as to what measures were being taken to give effect to Professor Harvey Sutton's advice and suggestions, and what measures were being taken to improve the health condition of the natives, especially in the matter of tuberculosis, the death rate for which was very high, in spite of the improved knowledge in recent years as to the treatment of the disease.

Mlle. DANNEVIG asked whether the difficulties of obtaining fresh water and fruit had been solved.

Major FUHRMAN replied that the rainfall in 1937 was 50.88 inches, as compared with 81.30 in 1936 (page 22 of the report). Those figures spoke for themselves as regards rain-water. The Administration had, however, taken adequate steps to provide catchment sheds and cisterns for the conservation of such rain-water as was available and to provide against a possible shortage. In 1937, £400 was spent on the erection of catchment sheds and cisterns.

He had already given full particulars concerning the food supply, which included fruit.<sup>1</sup>

Mlle. DANNEVIG had been surprised that there was no mention of water in the expert's report. The lack of fresh water was mentioned in previous reports as a cause of the high infant mortality. Was not that correct ?

Major FUHRMAN was unable to answer this question.

The CHAIRMAN asked the accredited representative to see that the question was put to the medical authorities.

LAND TENURE.

M. VAN ASBECK asked whether the statement on page 54 of the Minutes of the Thirty-first Session of the Commission that, under the Lands Ordinance of 1921, the consent of the Administrator had to be obtained before land was transferred, also applied to the transfer of land from native to native.

Major FUHRMAN replied in the affirmative.

DEMOGRAPHIC STATISTICS.

M. RAPPARD noted that the death rate of the Nauruans was higher than that of the Chinese and other inhabitants, (page 21 of the report), as was to be expected, since they normally spent their whole life in the territory.

He asked whether there had been any special epidemic or exceptional cause of death in the territory in 1937.

Major FUHRMAN knew of no special circumstances in 1937. It would be remembered, however, that there had been an epidemic of pneumonic influenza a few years previously, when there were 331 fatal cases, and that this epidemic was followed by an increase in cases of leprosy.

No doubt the ravages of influenza had weakened some of the older people and had left in its train a predisposition to pulmonary diseases, which, as would be seen from the report, accounted for roughly 40% of the deaths in 1937 (page 32 of the report).

<sup>1</sup> See pages 20 and 21.



CLOSE OF THE HEARING.

The CHAIRMAN thanked the accredited representative for his co-operation in the examination of the report.

Major Fuhrman withdrew.

**Petitions : Rapporteurs and Committee of Rapporteurs.**

The CHAIRMAN said that, in distributing the petitions, he had taken into account the experience of his colleagues. An up-to-date list of the petitions appearing in the agenda of the session would be distributed, together with indications as to which members of the Commission had undertaken to act as rapporteurs in respect of each of them.

As regards the group of petitions of a general character relating to Palestine, the Chairman had thought it wise to adopt a similar procedure to that followed last summer,<sup>1</sup> and to ask M. Rappard, Count de Penha Garcia and M. van Asbeck to form a Committee of Rapporteurs.

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THIRD MEETING.

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

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**Palestine : Examination of the Annual Report for 1937.**

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

WELCOME TO THE ACCREDITED REPRESENTATIVES.

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

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

Sir John SHUCKBURGH made the following statement :

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

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

I should like at this point to say a word about the situation as it was left last summer and the action which has since been taken by the mandatory Government. I am anxious in this connection to deal with two criticisms, of which a good deal has been heard. The first is that there has been undue delay on the part of the mandatory Government and the second that

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 175.

its policy has been lacking in definiteness. I would venture to put to you that neither suggestion is justified. Let us recall the sequence of events. It was not until the middle of September 1937 that the Council of the League of Nations had pronounced its *nihil obstat*, without which the further examination of the possibilities of partition could not be proceeded with. In that same month the campaign of terrorism, which had unfortunately revived in Palestine, culminated in the assassination, in circumstances of a peculiarly dastardly character, of a British District Commissioner and his police escort at Nazareth. The Government had to act firmly. Prompt use was made of the emergency powers conferred by the Defence Order-in-Council. The Arab Higher Committee, which was regarded as morally responsible for the outrages, was outlawed. Those of its members on whom hands could be laid were arrested and deported. The Mufti of Jerusalem was deprived of the special offices from which he had derived his outstanding and dangerous power. All the forces at the Government's command were devoted to the task of suppressing disorder. It was clearly no time for a Commission of Enquiry to begin its investigations. By the early spring, although the disorders had by no means ceased, it appeared that the position had become sufficiently stabilised to justify the appointment of the Commission; and a Commission was accordingly appointed, though its departure from England was delayed for a few weeks to enable the new High Commissioner first to take over the administration. The Commission finally left London for Jerusalem on April 21st, 1938. As I have already mentioned, it is now engaged upon its investigations.

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

That is what I have to say on the charge of dilatoriness. There remains the other criticism—that the policy of the mandatory Government is lacking in definiteness. I venture to think that this criticism implies a misunderstanding of the present position. There must necessarily be uncertainty as to the shape and form of partition, and indeed as to its practical adoption as a solution, until we know for certain that the Commission has found it possible to recommend a scheme of partition that can be regarded as equitable and practicable. Equitable and practicable—those are the words used in the despatch of December 23rd, 1937, of which copies have been circulated to you. But on the question of principle, there is no uncertainty or indefiniteness. The view that partition offers, in principle, the best and most hopeful solution of the Palestine deadlock remains, as it has already been declared, the definite opinion of the mandatory Government. It was the opinion expressed by the mandatory Government when it issued its Statement of Policy of July 1937. It has been reaffirmed more recently in the British House of Commons, and you will accordingly realise that there has been no modification of policy in this respect.

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

I turn now to the question of administration in general. The principal task of the Palestine Government, absorbing much of its energies and much of its financial resources, has been that of maintaining public security and waging incessant war—I am afraid that the word "war" is scarcely an exaggerated description—against terrorism, lawlessness and intimidation. The unhappy record of 1937 is set out in the annual report. During the first five months of the present year, as a result of the sustained efforts of the Administration and of action by the military and police forces, the state of public security in the Jerusalem and southern districts has, on the whole, shown a marked improvement. But conditions are still disturbed in the Galilee and Haifa—Samaria districts, where the nature of the country is peculiarly favourable to guerilla tactics. The armed gangs have on several occasions been successfully engaged by troops and police, and a considerable number of casualties have been inflicted upon them. In general, terrorist activities have taken the form of isolated acts of violence and attacks by armed bands; and, latterly, attacks have been concentrated against Arabs who are believed to be supporting the Government or giving information against the gangs.

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

patrolled and a barbed-wire fence, covering the whole of the northern and part of the north-eastern frontier, is in the course of erection.

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

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

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

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

As you are aware, Mr. Chairman, there has been a change of High Commissioner during the past year. Towards the end of 1937, Sir Arthur Wauchope found himself obliged, on grounds of health, to ask that he might be relieved of his appointment. This is not the time for passing his six-year administration under review or for attempting any general estimate of his eminent career. But there is just one point that I should like to make. Throughout his service in Palestine, Sir Arthur Wauchope devoted himself with single-minded sincerity to the task of appeasement and conciliation of the various elements in the country. The unhappy events of the last two years must have come as a special disappointment to one who had worked so hard for the interests of Arabs and Jews alike and for the growth of a spirit of co-operation between the two races. These events will not, I am confident, efface the memory of his very great personal contribution to the upbuilding of that better and happier Palestine which we all hope to see when the present storms have passed.

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

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

There is just one further word that I should like to say in conclusion. Will you let me assure you, Sir, speaking in the name of His Majesty's Government in the United Kingdom,

of the satisfaction and encouragement that it derived from the very generous tribute paid by the Permanent Mandates Commission in its report last summer to the conduct and record of the mandatory Power. The task of administering the Palestine mandate, a task that is never easy and often thankless, is sensibly lightened by the knowledge that the mandatory Power enjoys the support and sympathy of the Permanent Mandates Commission.

#### TRIBUTE TO SIR ARTHUR WAUCHOPE.

The CHAIRMAN thanked the accredited representative for his interesting statement. He suggested that the statement should not be discussed as a whole, but that the various points on which members of the Commission might wish to comment should be raised in their proper order as and when the successive chapters of the annual report were examined.

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

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

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

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

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

Sir John SHUCKBURGH took note of this request.

#### **Palestine : Question of the Application of the Mandate Charter : Jewish Immigration : Plan of Partition of the Territory : Jewish National Home : Possibility of Collaboration between Arabs and Jews : Carrying-out of Various Recommendations of the Royal Commission : Development of Self-governing Institutions.**

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

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

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

The most striking example was furnished by the new immigration regulations. Since August 1937, immigration had ceased to be graduated in accordance with the principle of economic absorptive capacity, a principle converted by a Council decision into a rule to which the mandatory Power must conform. Mr. Ormsby-Gore had told the Mandates Commission<sup>2</sup> and Mr. Eden<sup>3</sup> had told the Council that the departure from this rule, owing to unusual circumstances, was to be quite provisional. Nevertheless, the principle of absorptive capacity had been suspended beyond the date fixed, this time for an indefinite period. Hence, authorised

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

<sup>2</sup> *Ibid.*, pages 188 and 189.

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

Jewish immigration was reduced to very small proportions, and it was not too much to say that Articles 2 and 6 of the mandate were no longer applied.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. MOODY reminded M. van Asbeck that the proposals to which he had referred appeared in Part II of the Royal Commission's report and were there described as palliatives to be put into operation if the mandate were continued. Partition, on the other hand, appeared in Part III of the report and was put forward as a radical solution of the Palestine problem. Nevertheless, the mandatory Power had, wherever practicable, endeavoured, as a matter of good administration, to give effect to the palliative proposals of the Royal Commission. The annual report for 1937, which the Commission would shortly examine, dealt with all the points mentioned by M. van Asbeck. The United Kingdom Government's despatch of March 10th, 1938 (see Annex 3), dealt only with the question of immigration. As regards closer settlement, the annual report showed that Jews were still buying land and that the Administration was still prospecting for water in the Jordan valley and in the Beersheba sub-district. It was also stated in the annual report that the mandatory Power accepted the Royal Commission's recommendations regarding the expansion of Arab education, and had done all that the financial position allowed to give effect to them.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mlle. DANNEVIG observed that there were moderates on both sides. There were some Jews, such as Dr. Magnes, the President of the Jewish University, who were prepared to come to an arrangement with the Arabs and to continue the existing mandate. Had Dr. Magnes many followers, and what was his position in the eyes of the Jews and of the Administration ?

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

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

Sir John SHUCKBURGH agreed that what the Arabs feared was Jewish domination. But their claim went rather further than M. Palacios had suggested. They desired to " crystallise " the existing position. There were already 400,000 Jews in the country. The Arabs held that this number should not be further increased, and that Jewish immigration should cease. In exchange, they were prepared to promise fair treatment for the Jewish minority—a considerable one—within an Arab State. The Jews met this claim with an absolute refusal. They regarded it as tantamount to setting up what had been called a " permanent Ghetto " in Palestine. The consent of the Arabs might no doubt be obtainable to some solution on the lines of a fixed proportion—say 40%—of Jews in an Arab State ; but it was certain that such a solution would never be acceptable to the great majority of Zionists.



#### MUNICIPAL AND LOCAL COUNCILS.

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

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

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

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

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

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

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

#### SCHEME FOR THE TRAINING OF OFFICIALS.

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

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

#### QUESTION OF THE LOYALTY OF JEWISH AND ARAB OFFICIALS.

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

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

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

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

PUBLIC SECURITY : TERRORIST BANDS.

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

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

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

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FOURTH MEETING.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Syrian frontier was far from easy to control. A separate organisation of police-posts, men and armoured cars was set up for the purpose, and a special frontier-road was constructed ; but, even so, control had not been effective, the reason being that men did not cross over in large bodies which could easily be seen on either side of the frontier. They came in groups of four or five during the hours of darkness and crawled through the very broken country to within 300 or 400 metres of the road, waited until the patrol had crossed, and passed across the road themselves immediately afterwards. They were then in equally broken country inhabited by Arabs who were sympathetically disposed towards them and gave them hospitality and sanctuary.

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

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

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

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

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

M. VAN ASBECK asked whether it would be electrified.

Mr. KIRKBRIDE replied in the negative.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Count DE PENHA GARCIA asked, in connection with the Jewish Agency's representations concerning immigration, whether the temporary suspension of the economic absorptive capacity principle would run for one year from March 31st, 1938 (pages 56 and 57 of the annual report).

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

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

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

#### MINIMUM CAPITAL OF BANKS.

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

Mr. MOODY said the effect of the existing legislation was to eliminate such small banks as did not possess the true characteristics of banks. The necessity for this legislation had been illustrated by the banking crisis in the autumn of 1935.

#### HULEH CONCESSION.

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

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

#### ECONOMIC SITUATION : IMPORTS AND EXPORTS : AGRICULTURE.

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

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

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

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

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

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

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

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

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

The remarks of the accredited representative seemed to indicate that the situation in both industry and agriculture was not altogether satisfactory. The Jewish Agency naturally spoke on behalf of the Jewish community; but Arab cultivators were also involved. Indeed, from the economic standpoint, there could be no distinction between Jew and Arab as such. The economic situation of the country must be taken as a whole. He felt bound to point out that it was becoming worse, and that no solution seemed to be forthcoming. If and when partition were effected, it might prove to be partition of a country the economic value of which would have sunk to a very low state.

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

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

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

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

#### LOAN FOR THE CONSTRUCTION OF JEWISH SCHOOLS.

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

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

#### COMMERCIAL RELATIONS : QUESTION OF THE REVISION OF CUSTOMS AGREEMENTS.

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

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

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

The problem of tariffs in relation to other countries was entirely different. The Customs arrangements between Palestine and Syria and Trans-Jordan and Syria were of a special nature arising out of the fact that these territories were formerly integral parts of the Ottoman Empire. The peace treaties provided for a high degree of free trade between these countries ; and it was in order to secure some modification of that regime that the amendment of the two agreements was being taken up.

The modification of trade arrangements and Customs agreements between Palestine and other countries was a much larger problem and was bound up with other difficulties including the restrictive provisions of Article 18 of the mandate. It was receiving the careful consideration of the mandatory Government and the Palestine Administration.

Count DE PENHA GARCIA agreed that questions of principle were raised which would be difficult to settle.

#### QUESTION OF THE PURCHASE OF STORES LOCALLY BY THE GOVERNMENT.

Count DE PENHA GARCIA noted that the Jewish Agency had asked the Government of Palestine to purchase locally supplies for its own departments and for Government institutions. The mandatory Power was disposed to study the question ; but it seemed to lay down the rule that the price of the local product must not compare unfavourably with the quality and price of the same product if obtained from the United Kingdom through the Crown Agents for the Colonies. He noted that consideration was being given to the improvement of the local administrative machinery dealing with the local purchase of Government stores.

When a new system for local purchases was introduced, would purchases be effected by means of open contracts or would tenders be asked for ? For the purposes of the mandates system, the consequences of these two systems were different.

Mr. MOODY said the Administration accepted the principle of local purchase, subject of course to prices being not greater than those obtainable by the Crown Agents and the quality of the goods being more or less the same.

As regards the method of purchase, he believed the present system was purchase by tender. He did not think that method was inconsistent with mandatory obligations. In any case, the Commission could rest assured that no system contrary to the principles of the mandate would be allowed to operate.

Count DE PENHA GARCIA said that was the point he had in mind. He was glad to see that there was complete agreement about it.

#### **Palestine : Petition, dated January 1938 (with Annex), from the Nessiut (Presidency) of the New Zionist Organisation, London (Rapporteur : M. Palacios).**

M. PALACIOS said that, since the Jewish Agency had been mentioned, he would take the opportunity offered to put various questions concerning a petition submitted by the New Zionist Organisation. That petition was supported by a letter signed both M. Jabotinski, the President of the Organisation, and by M. Rosenheim, President of Agudath Israel, stressing the need for the summoning of a round-table conference to settle various problems of organisation and representation within the Jewish community.

The petitioning organisation concluded with the proposal that Article 4 of the mandate should be amended, or that the constitution and title of the Zionist Organisation should be so modified as to democratise the Agency. It claimed that the Agency should be an Assembly rather than a party, and for that reason it condemned the " Shekel ", or voting-card, (which was paid for annually at an average rate of a shilling per person) and demanded, on behalf of the Jewish people, the right to vote freely. The complaint was also made that the old Zionist organisation, which, it was alleged, only represented 20% of the electors, was permitted to exercise complete control over the material and historical interests of all the millions of Jews scattered over the world.

Above all, the petition raised the question whether the organisation favoured by the mandate was really the " appropriate " organisation, or whether the principle so far followed should be modified.

The fact that the observations of the mandatory Power were not yet available would enhance the interest attaching to the statement of the accredited representative.

Sir John SHUCKBURGH said the mandatory Power's observations were on the way : he regretted there had been some delay in forwarding them.

Taking the historical aspect first, he pointed out that Article 4 of the mandate contained the following passage :

" The Zionist organisation, so long as its organisation and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency "—

that was to say, as the Jewish Agency for the purposes contemplated in the preceding paragraph.



That showed the limited extent to which the mandatory Power was entitled to interfere in the organisation of the Jewish Agency. It was no doubt entitled to say, if it chose, that the organisation and constitution were no longer appropriate and must be changed. But that was clearly an attitude that the mandatory Power could not adopt lightly or without the fullest consideration. It would have to be thoroughly satisfied that some really serious defect had been brought to light.

When the mandate was approved by the Council of the League, the Zionist organisation was generally regarded as clearly the most appropriate body to form the Jewish Agency for Palestine. Its claims were not seriously disputed. A few years later, the Agency took steps, with the approval of the mandatory Government and of the Council, to enlarge its scope, by enlisting the co-operation of certain non-Zionist Jews, more particularly from America. Later, a section of the Zionists within the agency seceded from the parent body and set up the independent organisation now known as the New Zionist Organisation.

The CHAIRMAN, intervening, said the mandatory Power's observations had just reached the Secretariat. Perhaps M. Palacios would ask for any supplementary information after reading them.

M. PALACIOS asked that the accredited representative might give now some additional explanations.

Sir John SHUCKBURGH believed that the reason for the New Zionist secession was dissatisfaction with the official policy of the Agency, whose views were not considered to be sufficiently advanced, and which was regarded as not pressing its claims with sufficient vigour, and as acquiescing too readily in restrictions imposed by the mandatory Power.

The mandatory Power did not accept the view that, because a particular section of the Agency had seceded of its own accord it was bound to examine the question whether the parent body was still "appropriate" under the terms of the mandate.

Personally, he would suggest that the question was a matter for the Jews rather than the mandatory Government. If, as the New Zionists were understood to claim, they represented a large part of world Jewry, the question would surely solve itself. They would find the means of making their wishes effective and of compelling the Agency to extend its frontiers.

M. PALACIOS said that he could arrive at no conclusion concerning the action to be taken on the petition until he had had leisure to study it thoroughly. For that purpose, the observations of the mandatory Power were essential. Nevertheless, two points occurred to him. In the first place, it was not at all certain that at the time when the mandate was drawn up the Zionist Organisation was considered as representing the whole, or even perhaps the majority, of world Jewish opinion regarding Palestine. He believed that many Jews were against the solution of the problem adopted at that time, and that satisfaction had to be given them in the Balfour Declaration itself in order to dissipate their fears.

His impression was that the strong nucleus of determined partisans of Zionism had, since 1917, attracted other scattered groups and parties of Jewry. He felt, in that connection, that the Zurich meeting of 1929 represented a well-merited tribute to the perseverance and enlightened convictions of Dr. Weizmann.

In the second place, M. Palacios considered that the mandatory Power's rôle under Article 4 was not purely passive; it was called upon to determine whether the organisation and constitution of official, accredited Zionism in Palestine was suitable and proper, in the light of the rights and privileges accorded to the movement.

The explanations of the accredited representative would be of the greatest value to him in studying the problem.

Sir John SHUCKBURGH would like to correct a small misunderstanding. He had not intended to suggest that at the time when the mandate was approved the Zionist Organisation was regarded as representing the whole of world Jewry: merely that it was regarded as the most appropriate body for the purpose of Palestine.

M. PALACIOS agreed.

M. VAN ASBECK asked by what test the mandatory Power would judge of the appropriateness of the Agency. Was the appropriate body the body that represented the largest or the most influential section of Jews?

What part of the organised Jewish world was in fact represented by the two organisations which had combined to present the petition—the New Zionist Organisation and Agudath Israel? Was it not strange that two organisations which seemed to be so divergent and to work on different planes should have combined for the purpose?

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

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

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

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

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

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

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

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

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

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

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

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#### FIFTH MEETING.

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

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

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

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

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

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

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

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

Sir John SHUCKBURGH said that the paragraph must be read as a whole. Action against certain persons was taken because the conclusion had been reached that they must be regarded as morally responsible for the outrages. It was not claimed that this conclusion was based on legal evidence.

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

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

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

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

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

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

Mlle. DANNEVIG felt that there must be some controlling power behind the armed bands. Since the Arab Higher Committee had been outlawed, who was this secret directing influence?

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

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

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

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

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

Sir John SHUCKBURGH added that, whereas everybody must agree that the balance of criminality was overwhelmingly on the Arab side, there had nevertheless been cases of reprisals on the side of the Jews. The law had to be administered and punishment to be meted out impartially to whatever section of the population the accused person might belong. With regard to the case of the young Jews mentioned by Mlle. Dannevig, he had no knowledge of the details. He believed that two Jews had recently appeared before a military court on a charge of carrying arms.

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

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

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

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

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

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

#### QUESTION OF THE INTERVENTION OF THE ARAB PRINCES.

The CHAIRMAN asked whether, apart from assistance by Arab sympathisers in adjacent territories, the Arab princes had themselves intervened again in Palestine affairs in 1937. The Commission discussed this question at its thirty-second session<sup>1</sup> and concluded that such intervention could only be regarded as highly improper.

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

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 86 *et seq.*

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

#### ATTITUDE OF THE PRESS.

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

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

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

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

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

#### CRIMINAL INVESTIGATION DEPARTMENT.

M. VAN ASBECK recalled that the Commission had, in 1937,<sup>1</sup> discussed the situation of the Criminal Investigation Department and the bad effect which the disturbances had had on that body. The Royal Commission had also complained of the unreliability of the lower ranks. Had the situation changed since then ?

Mr. MOODY was glad to report that, with the advice and assistance of Sir Charles Tegart, a distinguished ex-officer of the Indian police, a thorough re-organisation and strengthening of the Department had been carried out. Effectives had been increased both in the higher and the lower ranks, British officers had come out to assist in reorganisation, complete control of all local branches had been secured, quarters had been improved. The fact that several Arabs in the ranks had lost their lives in the disturbances seemed to give proof of the loyalty of the lower ranks. He felt that most of them were now both loyal and competent.

#### APPOINTMENT OF TWO BRITISH CROWN COUNSEL.

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

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

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

M. SAKENOBE observed that, although a part of the military garrison had been withdrawn from Palestine since 1936, there were still in the country two infantry brigades (six battalions), a flying corps and a police force which, in 1937, amounted to nearly 4,000 men, together with 1,000 supernumeraries, 3,800 reservists and the Trans-Jordan Frontier Force. In addition

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 60 and 61.

to this very large armed force, the Administration had adopted drastic measures by setting up military courts, by dissolving the Arab Higher Committee and National Committees, by deporting or arresting considerable numbers of persons, by levying collective fines and by establishing punitive police-posts in a number of villages. In spite of all these measures, however, the situation still showed no improvement. It was, in fact, in some respects worse: the accredited representative's statement at the beginning of this discussion showed that, although during the early months of 1938 the situation had improved in Jerusalem and in the south (where it had never been critical), it was somewhat worse in the north.

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

Sir John SHUCKBURGH could only refer M. Sakenobe to the answer he had given to Mlle. Dannevig on the previous day.<sup>1</sup> There was no doubt that despite the resources at the disposal of the Administration, the complete restoration of order had not yet been effected. The Administration was quite determined to take whatever further measures might prove to be needed.

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

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

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

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

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

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

#### ADMINISTRATION OF THE AWKAFS: APPOINTMENT OF A TEMPORARY COMMITTEE.

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

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

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

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

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

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

<sup>1</sup> See page 45.

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

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

Lastly, he would be glad to know whether the new Commission had undertaken the necessary work of checking and auditing the accounts so as to ascertain whether the funds of the sacred shrines and religious foundations had been used by the administrators, who had been removed, for purposes for which they were not intended—for instance, for encouraging disturbances, for political campaigns and for other activities of the same kind.

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

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

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

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

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

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

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

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

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

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

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

M. Rappard was far from intending to criticise. But he did desire to ask that everything possible should be done to bring the interim period to an early conclusion. The present situation was unfortunately illegal, and the disturbances were bound to continue until that illegality ceased. As soon as a definite decision of a concrete character had been taken, the overwhelming desire of the population to live in peace would reassert itself.

He did not feel that he could put detailed questions regarding immigration to the accredited representative in those circumstances. The mandate was not being fully applied;

he was fully aware of the reasons for that fact. All the Commission could do was to assist the mandatory Power in reaching a final solution as soon as possible—even a solution which might not be perfect—for it would still be infinitely preferable to a prolongation of the period of uncertainty.

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

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

#### **Palestine : Petitions.**

The CHAIRMAN explained that, in view of the large number of petitions relating to Palestine, the Commission had decided to set up a Sub-Committee of three rapporteurs.<sup>1</sup> M. van Asbeck would ask the accredited representative certain questions on behalf of that Sub-Committee.

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

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

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

With reference to the allegation of illicit importation of arms by the Jews, the Administration and the police had been extremely active in putting down the illicit arms traffic. The annual report showed that they had had some success in this work. A large consignment of arms had been discovered at Tel Aviv just before the disturbance which broke out in 1933. It had never been definitely established whether those arms were intended for the Jews, but it was generally believed by the Arabs that they were so intended. There had been many seizures of arms since then, especially in 1936 and 1937.

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

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

<sup>1</sup> See page 27.



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

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

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

M. VAN ASBECK referred to the complaints made in the same petition that the arrest of the members of the Arab Higher Committee had been carried out in a ruthless manner. It was alleged that the arrested persons were given no opportunity of settling their affairs before departure and that they had been removed to an unhealthy climate.

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

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

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

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

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

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

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

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

SIXTH MEETING.

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

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

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

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

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

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

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

M. RAPPARD said the Commission had always considered that it was a duty of the mandatory Power to facilitate immigration, and the present practice had seemed to be a departure from the policy sanctioned by the Council.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sir John SHUCKBURGH had no knowledge of any such proposals.

#### LAND TENURE : QUESTION OF LANDLESS ARABS.

M. VAN ASBECK was glad to see that the Government had accepted the recommendation of the Royal Commission that land settlement should be accelerated (page 72 of the report). Last year, the Agricultural Survey had covered 10% of the area. What was the present proportion ?

Mr. MOODY said the figures were given in the table on page 72 of the report. The Government had not only accepted the Royal Commission's recommendation, but had increased the number of working parties. He thought the effect of the increase would, however, not be felt until the current year.

M. VAN ASBECK noted that the figures on page 72 were expressed in dunums and asked what was the total area of Palestine in dunums.

Mr. MOODY said the aggregate area of all the land taxed under the 1935 Ordinance was 13 1/2 million dunums. A dunum was equal to one-tenth of a hectare, or about a quarter of an acre in English measure.

M. VAN ASBECK asked whether Jews had bought much land in territories which were not yet settled.

Mr. MOODY said they tended generally to buy land in the areas already settled, but there were also cases of purchase of land in the north in areas which were not yet settled,—e.g. at Hanita and in certain parts of the Jordan valley.

M. van ASBECK asked what happened to the Arabs in the north who sold their land to Jews.

Mr. MOODY could not say. He thought that in view of the rapid industrialisation of the country most of the Arabs who were displaced from the land found occupation in industry and commerce. They probably became labourers in the large towns.

M. VAN ASBECK asked whether land was sold by absentee landlords.

Mr. MOODY observed that the same question has been put in the previous year<sup>1</sup> and an attempt had been made to supply an answer in the Annual Report (paragraph 46, page 76). It was, however, difficult to distinguish from the Records of the Land Registrars between fellaheen and absentee landlords. He thought quite as much land had been sold by the fellaheen as by absentee landlords. The latter had sold large tracts in the earlier years of the Administration. But that stage was now at an end.

In reply to a further question, Mr. Moody could not say whether the Arab vendors showed any reluctance to sell.

M. VAN ASBECK asked whether the Jews could buy land freely even in the Arab area.

Sir John SHUCKBURGH explained that, pending the adoption of a partition scheme, no "Arab area", as distinct from the rest of Palestine could be said to exist. There was no geographical restriction upon the sale of land.

M. SAKENOBE asked whether there was not an ordinance by which Arabs were not allowed to sell all their land.

Mr. MOODY replied in the negative, but said there was the Protection of Cultivators Ordinance which effectively prevented Arab cultivators from being expelled from the land against their will.

Mlle. DANNEVIG observed that six registered landless Arabs had been settled during the year and that no further claims had been submitted for registration (page 80, paragraph 75, of the report).

Mr. MOODY thought the resettlement of "landless Arabs" as strictly defined was no longer a serious problem. But he quoted the following passage from the Royal Commission's report regarding the limited meaning of that term: "The official total of landless Arabs is often misunderstood by those who are unaware of the limited definition of the term. It should be clear that this total can be regarded as representing only a portion of the displacement of Arab population resulting from Jewish land purchases." (Paragraph 59, page 240, of the Royal Commission's report.)

M. RAPPARD noted a considerable increase in the amount of land transferred. Would not this also "alter the data" on which the Technical Commission would report? Would not there have been the same grounds for limiting the transfer of land as for restricting immigration?

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 116.

Sir John SHUCKBURGH thought that it would have been a very strong measure to prohibit further sales of land. Land sales were ordinary commercial transactions to which the Arab vendor was a consenting party. Immigration, which could at least be represented as a policy imposed on the Arab population against its will, stood in quite a different category.

M. RAPPARD said the mandate laid down a specific obligation to facilitate immigration.

The CHAIRMAN asked for an explanation of the eagerness still shown by the Arabs to sell their land to the Jews, at the very moment when the Arab opposition to the settlement of the Jews was described as more irreducible than ever.

Sir John SHUCKBURGH said that there was the obvious motive of money.

The CHAIRMAN asked whether most of the land sold did not belong to Arabs who were absent.

Sir John SHUCKBURGH did not think this was any longer the case.

The CHAIRMAN thought that fact might throw some doubt on the intensity or general extent of the Arab opposition to Jewish immigration.

#### FORESTS.

M. SAKENOBE observed that in 1936 the Department of Forests had been created with the essential task of reforestation with a view to preventing land erosion and conserving the water supply. This was important work which called for heavy expenditure. He noted, however, that the amount assigned to this purpose in the budget was very small (page 205 of the report). Could any information be given regarding the plan of work ?

Mr. MOODY replied that a long-term forest policy had been formulated in 1936, but in the view of the High Commissioner the responsibility for carrying into effect such a policy should be delegated to local rural organisations. At present there were no such organisations, and in existing circumstances it was impossible to create them. The matter was, however, receiving attention. To some extent the policy of afforestation depended for its success on the existence of land belonging to the Government, the area of which was still small. With the progress of settlement the position would improve in this respect.

M. SAKENOBE asked what was the difference between the forest reservations and the State domain lands referred to on page 277 of the report.

Mr. MOODY replied that when land came into the possession of the Government it became a State domain. If it were suitable for forests it would be planted and would then become a forest reserve.

#### NATIONALITY.

M. PALACIOS asked two questions. He noted from page 83, paragraph 3, of the annual report that the number of applications for naturalisation had increased considerably since 1936. Indeed, in round figures there were about 12,000 in 1937 and only 5,000 in 1936. According to the report (page 83, paragraph 4,) the increase was due to a campaign by Jewish organisations to encourage naturalisation, and to the number of persons who had acquired the requisite residential qualifications entitling them to apply for naturalisation. Had the number of applications for naturalisation continued to increase ?

M. Palacios also pointed out that, in reply to an observation to the Council made by the Mandates Commission in 1937,<sup>1</sup> the annual report stated (page 85, paragraph 13) that consideration was being given by the Government to the amendment of the Palestine Citizenship Order-in-Council, 1925-1931, with a view to giving effect to the recommendation of the Royal Commission in regard to the position of Arabs born in the mandated territory and resident abroad who had been unable to acquire Palestinian nationality. Had this examination led to any results ?

Mr. MOODY said that as regards the first question he had no recent figures.

Sir John SHUCKBURGH, replying to the second question, said that no decision had yet been taken, but proposals had been submitted to the Secretary of State which were under consideration in London.

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 233.

ECONOMIC EQUALITY: NEGOTIATION OF SPECIAL AGREEMENTS WITH CERTAIN STATES :  
IRAQ PETROLEUM COMPANY.

Count DE PENHA GARCIA said that, at several sessions of the Commission, there had been complaints from the Jewish Agency regarding difficulties in industry caused by the fact that the principle of economic equality made it impossible to conclude arrangements with the countries which needed Palestinian products. The Government of the mandatory Power was aware of the position and it had been studied by the Royal Commission, which had proposed either the amendment or the elimination of Article 18 of the mandate. The Mandates Commission had been informed that that recommendation was under consideration by the Government (page 34 of the report). He asked if any progress had been made or whether the position was still stationary.

Sir John SHUCKBURGH said this was a very thorny question, as the mandated territory of Palestine was required under Article 18 to accord equal treatment to all States Members of the League and to the United States of America under a special agreement. This undoubtedly deprived the Palestinian Government of bargaining power. Various proposals had been made for removing the handicap; one was the introduction of two tariffs, the more favourable one to be applied to countries which were good customers of Palestine. Clearly, such a proposal was open to the objection that it would involve a reversal of the principle of economic equality. Other suggestions involved similar difficulties. He could only say that the whole matter was under careful consideration but that the position was at present stationary. Meanwhile the United Kingdom Government was doing what it could to safeguard the economic interests of Palestine. For example, in negotiating new commercial treaties, every endeavour was made to include Palestine on the same basis as British possessions. Short of a reversal of Article 18, which would clearly be a very far-reaching step, he did not see what more could be done. He hoped that, if and when partition became operative, the independent States thereby created would enjoy complete economic liberty.

Count DE PENHA GARCIA agreed that the United Kingdom Government had tried by other means to give protection to the agriculture and industry of Palestine by clauses in treaties with other countries. He was glad to see that in Canada most-favoured-nation treatment was extended to Palestine. He observed that negotiations were being carried on with Turkey and Brazil (page 34 of the report), and asked what result had been obtained.

Even if the partition scheme were put into effect on the lines suggested by the Royal Commission, a part of Palestine would still be under mandate, and the question of economic equality would be of importance for that part of the country.

Sir John SHUCKBURGH understood that the arrangement with Brazil had now been completed. In addition to Canada, the Union of South Africa had also granted most-favoured-nation rights to Palestine.

M. RAPPARD assumed that as the Government, including the army and the air force, imported large quantities of material, this gave the Government a certain bargaining power in dealing with States refusing imports from Palestine.

He wished to raise the question of the privileges granted to the Iraq Petroleum Company. He was not making any criticism, but he enquired how those privileges were brought into harmony with the economic equality clause. The Iraq Petroleum Company was a national of a State Member of the League. How could privileges be granted to that State which were denied to other States Members?

Sir John SHUCKBURGH said that, to the best of his recollection, the agreement with the Iraq Petroleum Company, which he had no doubt was reported to the Mandates Commission at the time, was based on the consideration that the Company was entitled to favourable treatment, having regard to the advantages in the way of increased trade, employment, etc., which it was bringing to the country.

If any other company was in a position to bring oil through Palestine it would receive similar treatment.

M. RAPPARD, after looking into the matter, found that the Mandates Commission had had a long discussion with the French accredited representative on the subject of the Iraq Petroleum Company in 1931.<sup>1</sup> This gave rise to a lengthy discussion in the Council, in the course of which Lord Cecil, on behalf of the United Kingdom Government, declared that his Government was satisfied that the pipe-line contracts were just and fair. M. Flandin associated himself with Lord Cecil's remarks, in spite of certain criticisms made by M. Grandi, on behalf of Italy. Finally, the Council adopted a resolution which he thought could be taken as the League's final decision in the matter:<sup>2</sup>

<sup>1</sup> See Minutes of the Twentieth Session of the Mandates Commission, page 230.

<sup>2</sup> See *Official Journal*, November 1931, page 2056.

“ The Council takes note of the Mandates Commission’s discussions on the agreements concluded between the Iraq Petroleum Company and the British High Commissioner in Palestine of the one part, and the Government of the Lebanon and Syria of the other part, in view of the construction of the pipe-lines which will link the Mosul oilfields with the Mediterranean.

“ The Council also takes note of the statement made before the Mandates Commission by the accredited representatives of the mandatory Powers concerned to the effect that the exceptional facilities granted to the Iraq Petroleum Company would be extended to any other concern which might desire to construct a pipe-line through the territories of Palestine, Syria and Lebanon for the purpose of conveying petrol from Iraq to the Mediterranean coast.”

M. Rappard noted the statement on page 232 of the annual report that certain goods were supplied free of duty to His Majesty’s Forces, etc., “ and other institutions ”. What were those institutions ?

Sir John SHUCKBURGH believed that the expression included certain Jewish colonisation organisations importing goods for their work. It might also include religious institutions, the Hebrew university and other non-profit-making organisations.

#### ECONOMIC SITUATION : IMPORTS AND EXPORTS : AGRICULTURE.

M. GIRAUD said that during the discussion certain views which had been expressed with regard to the economic situation of Palestine in 1937 had somewhat surprised him, because he had formed the impression on reading the report that, though not good from all points of view, it was more satisfactory than might have been expected.

It was difficult to sum up briefly the situation of the territory as a whole, because many different factors had to be taken into account in so advanced a country, which was passing through a difficult period. Perhaps the best method would be to pass rapidly under review the various general activities.

In agriculture, the year 1937 had been excellent. The main products were cereals and fruit (particularly citrus fruit). The production of wheat, barley and durra (page 264 of the report), which represented nine-tenths of the total cereal production, was 110,000 tons higher than the 1936 harvests, and 44,000 tons (20%) higher than the average. The figures for fruit (especially citrus fruit) were no less favourable. Exports of citrus fruit (11,904,000 boxes of oranges and grape-fruit (page 236 of the report)) reached a record figure—twice as high as three years previously. Unfortunately, prices had not been remunerative, and the Government had had to take various fiscal measures to assist fruit production, for which it was absolutely essential to find suitable markets. It was reassuring for the future of fruit production, however,—which had made such rapid strides as to be perhaps somewhat haphazard—that the area planted had fallen from 28,000 dunums in 1935 to 20,000 in 1936, and 1,500 in 1937 (page 30 of the report).

Generally speaking, industry had suffered in 1937 from the prevailing uneasiness and uncertainty. Unemployment had increased considerably by the end of the year. There had been a decline in building activity (page 236 of the report). At the same time, it was interesting to note that very definite progress had been made in the oil industry, which had handled 30,000 tons of imported oil seed as compared with 22,000 tons in 1936 (page 235) and had exported edible oil (other than olive oil) valued at £P112,000 as compared with £P51,000 in 1936 (page 239). Exports of potash and bromine had increased from £P168,000 to £P223,000 (page 240), and the production of wine by 50% (page 133 of the report).

With regard to foreign trade, he first thanked the mandatory Power for including in the 1937 report a table showing all articles of export (pages 239 *et seq* of the report.) The statistics gave a very favourable general impression. Imports had increased by 15% (pages 30 and 236) and exports by 60% (pages 30 and 239), a record figure. And he was glad to see that the steady expansion of exports was tending to make the trade balance less passive every year. The relation between exports and imports had risen from 20% in 1934 to 24% in 1935, 26% in 1936, and 36% in 1937.

Customs revenue, which reflected the movement of trade, had slightly increased (by about 6%) in 1937 after a sharp fall in 1936 (page 227 of the report).

While tonnage discharged in the various ports was about the same (992,000 tons as compared with 919,000 in 1936), tonnage loaded had increased considerably from 282,000 tons to 475,000 tons (nearly 70%) (page 227 of the report). It should be noted in this connection that the new port of Tel Aviv had already assumed considerable importance in foreign trade, and 124,000 tons of products and commodities, or 9% of the total trade, were handled there in 1937.

The kilometric tonnage transported on the railways was 1,102,000, as compared with 1,009,000 in 1936 (page 287), though the increase was due solely to citrus fruit; if this product were deducted, there was a drop of about 7%. Railway receipts in respect of both goods and passengers had fallen considerably.



There had been considerable activity in postal, telegraphic and telephonic communications, receipts being up by about 12% (page 258 of the report). But the report pointed out that this increase was due to the presence of the military forces in Palestine (page 175 of the report).

Sales of electric current had increased from 70 million to 77 million kwt. hours.

Industrial and commercial difficulties had led to voluntary liquidation in 27 cases (as compared with 17 in 1936) and 57 bankruptcies (as compared with 33) (page 31 of the report).

It would be seen from a study of public finance that for the first time since 1932, the budget revealed a deficit (page 173), and that was not surprising in view of the heavy expenditure on military and police forces.

Currency circulation had fallen considerably (by 22% in 21 months), while capital investment and the movement of bank deposits had slowed down (page 202 of the report).

To sum up, agricultural production had been exceptionally good, but some of the advantage had been lost because of the low prices of citrus fruit. Industrial activity had suffered generally from the political situation (with unemployment increasing at the end of the year), though some products had made progress. Foreign trade had expanded considerably, and the trade balance showed a distinct improvement. Internal trade showed some signs of having slowed down a little. Public finance showed a considerable deficit, owing to the disturbed state of the country, and private finance seemed to reveal more timidity. These were the main features of the economic situation of Palestine in 1937.

While some of these features were not favourable, the general impression was that during a particularly difficult period Palestine had shown unusual power of resistance. From the figures quoted, it might be affirmed that when all the country's activities could be carried on in normal circumstances, that was to say, in an atmosphere of peace, order and security, it would be very prosperous.

M. Giraud noted from the table on page 239 of the report that exports of rice amounted to £P57,573 in 1937, as compared with £P4,288 in 1936 and *nil* in previous years. There was no mention of rice as a local product of Palestine in the documents furnished to the Royal Commission, and it was not included in the list of major crops on page 264 of the annual report. Was it a new product, or was it imported in a rough state and re-exported after decortication?

Mr. MOODY said rice was imported from Iraq and subsequently re-exported. Exports had risen because a new rice factory had been opened.

M. GIRAUD asked whether the accredited representative could offer any explanation of the striking increase in the export of undressed hides and skins, the largest export in value after citrus fruit, since 1937 (page 240 of the report).

Sir John SHUCKBURGH pointed out that the increase had been progressive, but could offer no full explanation at the moment. The point would be looked into.

M. GIRAUD was glad to find a table of re-exports on page 247 of the report, in response to the Commission's request. He hoped a similar table would appear each year, as it threw an interesting light on one aspect of trade in Palestine.

Sir John SHUCKBURGH took note of this suggestion and assured M. Giraud that the points raised in the course of his statement would be carefully studied.

M. RAPPARD said that he, like M. Giraud, had been impressed by the figures for commerce and industry in 1937. They were the figures of an exceptionally prosperous country and he doubted whether they were paralleled in any other country.

He found the statement that "there was an expansion in the export trade resulting in increased production" (page 235) somewhat curious. It was true that industries could not develop without markets, but the striking thing was that production had increased and new industries had been established. The textile industry had made great strides, especially in yarn and piece goods for export (page 240 of the report). He presumed the wire-netting industry had profited greatly from the scheme to fence the territory.

Mr. KIRKBRIDE pointed out that the fence would consist of barbed wire, not of wire netting. As far as he was aware, barbed wire was not manufactured in Palestine.

M. RAPPARD said he had been struck by the increased imports of iron bars, angles, rods, girders and pipes (page 237 of the report). This led him to believe that an internal industry in those articles might develop in course of time. Presumably barbed wire was iron wire.

Mr. KIRKBRIDE said nearly all the barbed wire for the fence was being imported, as the stores available in Palestine when the contract was signed were extremely small.

#### WATER SUPPLY.

M. GIRAUD observed that the water supply was of fundamental importance in increasing agricultural production in a so small and already densely populated country. There seemed to be plenty of springs, at any rate in some parts of the territory. But the Royal Commission had pointed out in its 1937 report that under Ottoman Law, which was still applied, spring water was the property of private persons who could sell it as they pleased. The Commission had expressed the view that the revision of this law was both necessary and urgent (paragraphs 99 and 100, page 252 of the Royal Commission's report). Had consideration been given to this suggestion ?

Mr. MOODY said the Administration had drafted two Bills, one for the control of surface waters and the other for the control of underground waters. Before they could be passed as ordinances, however, ownership of all public waters would have to be vested in the High Commissioner by an amendment of the Palestine Order-in-Council, so that he could regulate their economic and beneficial use by the inhabitants of Palestine.

Sir John SHUCKBURGH added that the amendment had been communicated to the Colonial Office and referred back to the Palestine authorities on one or two points of detail.

#### CO-OPERATIVE SOCIETIES.

M. GIRAUD was interested to note that sixty new co-operative societies had been formed in Arab villages in 1937 (making 120 in all with 5,121 members), and that loans to the extent of over £P 71,000 had been granted down to the end of 1937 (page 290 of the report).

He asked whether the Government's efforts to promote co-operation had met with a favourable reception from the Arabs and whether there were grounds for hoping that the movement would develop considerably, even if not to the same extent as among the Jews.

Mr. MOODY was of opinion that as conditions became normal there would be a considerable extension of the co-operative movement among the Arabs.

#### HOLY PLACES : BASILICA OF THE HOLY SEPULCHRE, JERUSALEM : BASILICA OF THE NATIVITY, BETHLEHEM.

M. PALACIOS said the information furnished in the report was in general interesting (pages 102 *et seq* of the report), but there was one piece of information which was more important than all the rest and should retain the attention of the Commission. The latter had already dealt with the matter on various occasions. The Press had sounded the alarm. Finally, it had become painfully topical through a recent account which had attracted great attention and had been published in a book. Two well-known writers, in a work entitled *Alerte en Syrie* (pages 111 and 112), wrote, among other statements about which M. Palacios thought there was some doubt—for instance, that concerning a commission which was to be presided over by King Albert—that the Basilica of the Holy Sepulchre would collapse when least expected. This would show the Moslem world that Christians were not even sufficiently united to support the House of their God.

While some allowance must be made for literary licence, this passage of the book in question nevertheless had some foundation in fact—a fact that the Commission itself had considered in connection with the report of the architect, Mr. Harvey, and the mandatory Power had itself reported on pages 102 and 103 of the annual report, where it issued a warning that if the necessary funds were not forthcoming in the near future, the Basilica would have to be closed to the public before Easter 1938. Doubtless it had already been closed. The matter was serious, because it concerned not only the worshippers who might be killed by the collapse of the dome, but also because it affected the higher, spiritual interests of Christendom. In the absence of the Commission on Holy Places provided for under Article 14 of the mandate, the mandatory Power should surely take the necessary steps to solve the problem.

Sir John SHUCKBURGH said that the Holy Sepulchre was in fact closed during Easter Week 1938. The trouble dated back to the earthquake of 1927, which upset the internal structure of the church. It was patched up, but suffered from another earthquake in 1937.

There had been considerable correspondence with the Latin, Orthodox and Armenian Patriarchates as to how the recommendations of the expert, Mr. Harvey, should be carried out and how the expenses should be met. He was given to understand that the Latin and

Armenian Patriarchates were ready to pay their share and, indeed, claimed the privilege of doing so; but there had been some difficulty in coming to an understanding with the Orthodox Patriarchate. The matter was obviously a delicate one. Great care had to be taken not to offend the susceptibilities of the different Christian communities concerned with the affairs of the Holy Sepulchre.

M. PALACIOS said the building was of so unique a character that in his view steps should be taken immediately to prevent a serious collapse. He thought the whole Commission would agree with him there.

Mr. MOODY said the Administration realised that action could not be postponed until the religious communities had reached agreement on financial and technical points. The Public Works Department was therefore preparing a plan for bracing the church temporarily, pending radical reconstruction.

M. PALACIOS noted from paragraph 1, page 102, of the Annual Report that the Orthodox, Latin and Armenian communities had been requested to contribute equal shares towards the cost of the repairs to the roof of the Basilica of the Nativity at Bethlehem. The Latin and Armenian communities had paid their respective shares, while the Orthodox community had protested, claiming the right to pay the whole cost. Did that mean that it had not paid anything at all?

Mr. MOODY said he thought that the Orthodox community had paid the whole amount and the Government had put the surplus into a suspense account.

M. SAKENOBE asked to whom the Basilica of the Holy Sepulchre belonged.

Mr. MOODY said that the ownership of the Basilica of the Holy Sepulchre in Jerusalem was divided between the three principal Christian communities—the Orthodox, the Latin and the Armenian.

The ownership of the Basilica of the Nativity at Bethlehem was in dispute and that was the reason for the difficulty to which M. Palacios had referred.

M. SAKENOBE said it was very difficult in view of Mr. Moody's reply, to understand why funds were not forthcoming for the Basilica of the Holy Sepulchre. He felt sure the necessary sum would be obtained within twenty-four hours if the facts were made known to all the Catholics of the world. Something might be done to make publicity on the actual state of the Basilica.

Sir John SHUCKBURGH said it was not so much a matter of money as of rivalry between communities. It was exceedingly difficult to arrive at agreement upon a specific programme.

Mlle. DANNEVIG presumed the question was one of prestige rather than money. She asked whether the right to preserve the *status quo* conferred by the mandate had accentuated the difficulty.

Sir John SHUCKBURGH did not think that the position had become more difficult in consequence of the mandate.

Mlle. DANNEVIG said that visitors to the Holy Places were much distressed at the dissension among the Christian communities in Jerusalem and Bethlehem. Would a round table conference be of any help? If Christian churches could not agree on such a question, how could one expect peaceful settlements on other matters?

Sir John SHUCKBURGH saw little hope that the difficulty, which arose out of age-long sentiment, could be solved in the manner suggested.

#### FUNDAMENTAL LAW OF THE ORTHODOX PATRIARCHATE OF JERUSALEM.

M. PALACIOS drew attention to the statement on page 106, paragraph 4, of the report, that the Government had under consideration a draft Ordinance to amend the Fundamental Law of the Orthodox Patriarchate of Jerusalem. The accredited representative had referred to that possibility at the Commission's thirty-second session.<sup>1</sup> In particular, he had expressed the fear that there was no hope of getting complete agreement between the laity and the Patriarchate, but he thought the differences had been so narrowed down that the Government could legislate with good hope of obtaining, if not the full concordance, at least the acquiescence of both sides. Had the Fundamental Law been amended, and if so, what attitude had those concerned adopted towards the new text?

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 122.

Sir John SHUCKBURGH said that the difficulty was that the Orthodox Church in Palestine fell into two sections—the clergy, who were Greeks and Greek-speaking, and the laity, who were Arabs and spoke Arabic. There had been a good deal of controversy between the two : the laity felt that they did not have sufficient say. In the interests of public order, which was the only ground on which he could concern himself in the matter, the High Commissioner had tried to induce the clergy to make adequate concession to the lay point of view. After some discussion, an ordinance was drafted to deal with the point, which it was hoped would shortly be enacted, with the acquiescence, if not the enthusiastic support, of the parties concerned.

NEGOTIATIONS BETWEEN THE VAAD LEUMI AND AGUDATH ISRAEL.

M. PALACIOS pointed out that the annual report for 1936 stated on page 43 that the negotiations between the Vaad Leumi and Agudath Israel, begun in 1935 with a view to meeting the legitimate claims of Agudath Israel, had been discontinued during 1936 owing to the disturbances. Had these negotiations been resumed since the disturbances ?

Mr. MOODY said the position was the same as in 1935 : no progress had been made.

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SEVENTH MEETING.

*Held on Saturday, June 11th, 1938, at 10.30 a.m.*

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

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

DEFENCE OF THE TERRITORY : POLICE (*continuation*) : CRIMINAL INVESTIGATION  
DEPARTMENT (*continuation*).

M. SAKENOBE observed (page 193 of the report) that there had been an increase of £P 1,000,000 in Palestine's contribution towards the excess cost of the Royal Air Force and army units stationed in Palestine and Trans-Jordan, as between 1935/36 and 1936/37. What was the amount provided in the budget for 1937/38 ?

Sir John SHUCKBURGH replied that the amount in the estimates representing Palestine's contribution to defence in 1937/38 was £P 789,000, approximately. The Commission would remember, however, that it had been decided to relieve Palestine of this burden for the two years 1938/39 and 1939/40.

M. SAKENOBE observed (page 106 of the report) that there had been an increase of over £P 200,000 in the cost of the police force and prison services in 1937 as compared with 1936. The report went on to show that there had been a corresponding increase in effectives, but that the additional cost was mainly due to the formation of a special force to control the Syrian frontier and the establishment of British police reserves in three large towns (page 108 of the report). It was further stated that the Trans-Jordan Frontier Force had remained substantially unchanged.

Could the accredited representative state whether those increased police forces had proved sufficient to carry out the duties assigned to them, or had further increases become necessary since 1937 ?

Mr. MOODY replied that there had recently been a steady increase in the effectives, and an even heavier increase in the cost of the police forces, due to increased travelling and transport, to improvements and additions in material, and to some extent to the reorganisation of the Criminal Investigation Department.

The Special Frontier Division had not been able to close the frontier entirely to the passage of men and arms, and it was for that reason that a continuous barbed-wire fence was, as already reported, being erected.

ARMS AND AMMUNITION : ARMS SMUGGLING.

M. SAKENOBE referred to the traffic in arms (pages 131 and 132 of the report). Seizures had increased considerably, as had the number of licences to carry firearms for self-protection. At the same time, convictions for the carriage of firearms had also increased, and military

courts had been set up to deal with a number of offences, of which that of carrying firearms involved the death penalty (page 22 of the report).

Had the measures taken to prevent the carriage of firearms proved satisfactory? To whom had licences been granted to carry firearms? Could it be taken that the persons involved in smuggling had mainly been Arabs?

Mr. MOODY replied that, although the new military courts had been in action since November 1937, it was difficult to determine the exact effect of the new defence regulations of which they formed part. The Administration's belief was that the courts had had a deterrent effect in urban and sub urban areas, although terrorist bands were still extremely active in rural areas. The position would no doubt be worse if there were no military courts. One serious difficulty up to the present had been the ease with which terrorists could cross into Syria and thus escape.

Mr. KIRKBRIDE, in reply to a further question as to the origin of seized arms, said that practically all the rifles were of war-time patterns, mostly German Mausers dated 1917; others were British army rifles which had remained in hiding since the war. Occasionally, French weapons dating from about 1924/25 had been found; these had doubtless been imported from Syria after the disturbances there. The ammunition was usually old and unreliable, but recently there had been both in Syria and in Palestine cases of seizure of small quantities of new ammunition of German origin. As to revolvers and automatic pistols, those seized came from a great variety of countries.

LABOUR : UNEMPLOYMENT (*continuation*).

Mr. WEAVER said that the labour section of the report (pages 124-131) contained welcome information concerning the development of labour statistics. He hoped that the Administration would soon be able to expand the unemployment statistics, which were still disappointing, especially as regards Arab unemployment. Although no estimate of Arab unemployment was given, it was evident that there had recently been an increase. While the Jewish unemployed were effectively assisted by means of the unemployment fund of the General Federation of Jewish Labour, Arab workers were almost completely unorganised and therefore received no assistance. Had the Government been able to do something to help them?

Sir John SHUCKBURGH agreed that the statistics of unemployment left something to be desired. The Government was anxious to improve them. As regards the number of unemployed, he quoted the figures given in Mr. Ormsby-Gore's despatch of March 10th, 1938. More recent data indicated that there had been some increase in the number of Arab unemployed. With regard to Mr. Weaver's last question, assistance had been given in the form of grants to the district authorities to enable them to undertake public works such as road-building, etc. It must be remembered that, unlike Jews, many Arabs, when unemployed, could go back to the land. The grants for relief works had certainly had some beneficial effect, but he was not prepared to say that there was no substantial distress among the Arab unemployed.

Mr. MOODY, replying to Mr. Weaver on the fall in wage rates, noted in the report (page 128), and on the prospects of introducing minimum wages, said that the Administration was making every effort to obtain more reliable information on the prevailing wage rates, and that the possibility of introducing minimum wages, with which little progress had been made in the past, would be reconsidered when conditions became more favourable.

Mr. WEAVER was sorry to see that there had been no further progress with the development of labour legislation. The draft Ordinances published in 1935 were still not on the statute book. Had the accredited representative any information to suggest the existence of any efforts to equip Palestine with an adequate code of labour legislation? If the country was going to be partitioned, a Labour Code would be particularly essential if the new States resulting from the partition were to start on sound lines.

Mr. MOODY replied that the 1935 draft Ordinances were now under consideration by a Committee on Labour Legislation.

Sir John SHUCKBURGH added that he shared Mr. Weaver's hopes in the matter of an adequate Labour Code. The problem of labour legislation was very much to the fore in all British dependencies; and he thought that Mr. Weaver might rest assured it would not be overlooked in Palestine.

JUDICIAL ORGANISATION : QUESTION OF THE APPLICABILITY OF THE OLD OTTOMAN LAW  
WITH REGARD TO THE BREAKING OF THE FAST OF RAMADAN.

M. VAN ASBECK wished to raise, in connection with a matter already discussed last year,<sup>1</sup> a point of constitutional importance. A magistrates' court at Nablus had discharged a Moslem accused of disregarding the Fast of Ramadan, on the ground that the obligation embodied in an Ottoman imperial irade to observe the Fast was repugnant to Article 15 of the mandate. The Appeal Court reversed that judgment, and fined the accused on the ground that, as the mandate had not been made part of the legislation of Palestine, the irade was still in full force. Finally, the Supreme Court ruled that, since the former Ottoman Law had not, by the Palestine Order-in-Council (Article 46), been limited in its operation where it ran counter to the mandate, it remained in force even where it was in conflict with the provisions of the mandate. It therefore upheld the Appeal Court's decision.

The position was anomalous, for it appeared that, while the High Commissioner was expressly prohibited from legislating in a sense repugnant to the mandate, pre-existing legislation, even when inconsistent with the mandate, remained operative and had to be enforced by the courts because they were prohibited from testing that legislation as against the mandate. Such a situation might involve difficulties, particularly in connection with land tenure, which was still mainly governed by Ottoman law.

Sir John SHUCKBURGH was not familiar with the details of the specific case mentioned by M. van Asbeck ; but he believed that the general legal position had been correctly stated. He could only undertake to note what had been said, so that the whole question might be examined and dealt with in the 1938 report.

In reply to a further question, he also undertook that some reference should be made in the next report to the position arising out of the extension in 1935 to all inhabitants without restriction of the privilege of electing for trial before a British magistrate or a British majority in the district and supreme courts.

M. VAN ASBECK asked whether the work of the Supreme Court was still in arrears — as the Royal Commission had said — and whether the accumulation of appeals had been reduced.

Mr. MOODY replied that the annual report for 1937 (pages 90 *et seq*) showed that there had been a great improvement as regards arrears of cases in all the courts of Palestine. The situation as regards arrears was now practically normal. In connection with land cases, a Bill was now ready, and would soon be promulgated, providing for the constitution of land courts, to consist of one judge or chief magistrate or magistrate, in accordance with the value of the immovable property involved.

M. VAN ASBECK observed that the ordinance setting up juvenile courts had not come into force, as arrangements for segregating young offenders from adult prisoners while awaiting trial in custody had not been completed (page 155 of the report). He asked whether this obstacle could not be overcome.

He also noted that the number of escapes from reformatory schools appeared to be very high (page 109 of the report). Were there special reformatories for girl offenders ?

Sir John SHUCKBURGH said that the question how far the work of juvenile courts could be carried out, despite the lack of facilities for segregating young offenders, would be considered. As to the existence of special institutions or reformatories for young female offenders, he was not quite sure of the facts ; but he believed that the "probation" services were very active on behalf of girls who came before the courts, and there were women officers to look after them.

Mr. MOODY said that boys in reformatories were encouraged to work in the open, and this doubtless made escape more easy. The report showed that most of the escaped inmates had either been recaptured or had returned voluntarily.

Replying to Mlle. Dannevig, he added that the number of girl offenders was certainly very much lower than that of delinquent youths.

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 122.

#### ANTIQUITIES.

Count DE PENHA GARCIA said that he had read this section of the report with much interest (pages 121 to 123 of the report), and that he was much impressed with the excellent work carried out by the Administration in expanding the museum at Jerusalem, editing a new catalogue in Arabic and Hebrew, and carrying on with a number of excavations in spite of the disturbed condition of the country. Had the disturbances interfered with antiquarian research or with the preservation of antiquities ?

Mr. MOODY replied that, generally speaking, it had proved possible to pursue archæological work without appreciable hindrance.

#### HOLY DAYS.

Mlle. DANNEVIG asked if it would be possible to add the corresponding Christian dates to the tables of holy days at the end of the report (pages 407 and 408).

Sir John SHUCKBURGH promised that this should be done in future.

#### ALCOHOL AND SPIRITS : DRUGS.

M. SAKENOBE observed that although there had been an increase in the output and import of wines (page 133 of the report), and a slight increase in drunkenness (page 133), the position could not be regarded as abnormal in view of the expansion of the population and the rise in the standard of living. The 1936 report had stated that, owing to the disturbances and the institution of curfew, it had not been possible adequately to measure the practical effects of the Sale of Intoxicating Liquor Ordinance of 1935 (see page 146 of the report for 1936). Was any information available on that point now ?

Sir John SHUCKBURGH took note of this question, and promised that the matter should be dealt with in the next report. He agreed with M. Sakenobe that the position in regard to drunkenness could not be considered as abnormal.

M. SAKENOBE, turning to the question of drugs, observed that there had been a considerable increase in seizures and in prosecutions (page 135 of the report, paragraph 13). There was no doubt that traffickers were endeavouring to take advantage of the disturbances to use Palestine as a dumping-ground. Was the Administration ready to take special measures to meet this danger and, in particular, was it proposed to increase the penalties ?

Sir John SHUCKBURGH referred to the information given in paragraph 14 on page 135 of the report. It was not thought that further special measures were called for. The increase in the number of seizures and of prosecutions was a measure of the activity displayed in combating the drug menace. He believed that very severe penalties had been inflicted in a number of cases.

In reply to subsequent questions, he undertook to make further enquiry into two points of detail—viz : (1) the appearance of codeine as an appreciable import into Palestine in 1936 (page 134, paragraph 10 of the report), and (2) the question whether there had been any contraventions during 1937 of the Merchandise Marks Ordinance of 1929, in particular as far as wines and spirits were concerned (page 133, paragraph 6, of the report).

#### EDUCATION.

Mlle. DANNEVIG was glad to note that this subject was dealt with fully in the report (pages 136 *et seq.*). She was bound, however, to conclude that the situation as regards Arab education left much to be desired, and that progress was slow. She emphasised the recommendations of the Royal Commission's report with regard to Arab education. There seemed even to be a danger that illiteracy was no longer on the decline among Arab children.

She observed (page 144 of the annual report) that many schools had been closed and subsequently occupied by the military. What had been the attitude of masters and pupils when faced with that situation ? Did education cease altogether in those circumstances ?

Again (page 149 of the report), it appeared that in the Arab public education system there were no secondary schools whatever for girls. In the light of that fact, how was it possible to recruit students for Arab training colleges for women ?

Mr. MOODY agreed that the situation was not satisfactory. He could, however, assure Mlle. Dannevig that the Administration fully accepted the Royal Commission's view that Arab elementary education should rank second only to public security from the financial standpoint. The Mandates Commission would, however, appreciate that, in the present circumstances, a disproportionate amount of the resources of the country was being employed in the maintenance of order ; it followed that surplus funds for educational reforms and other

social services were extremely restricted. All the Administration could do at present was to endeavour to preserve existing standards and not permit retrogression.

In reply to further questions by Mlle. Dannevig, he explained that in 1936 practically all the schools and colleges for Arabs had gone on strike. It had not been unreasonable, therefore, to quarter the troops which reached the country in considerable numbers at that time in the empty school-buildings. Everything had been done, however, to find fresh quarters for the troops as rapidly as possible; and all schools had, in fact, been evacuated, although in the central and northern districts, he believed, there had been a few cases of re-occupation of school buildings by the military in connection with recent operations.

Mr. Moody did not think that village education necessarily ceased by reason of a school-building's being occupied by troops. Classes probably continued elsewhere.

Arab girls were trained to become teachers in the Women's Training College, a Government institution. He undertook to provide further details on this subject in the next report.

#### PUBLIC HEALTH. TOWN PLANNING AND BUILDING ACTIVITIES.

Count DE PENHA GARCIA said the public health section of the report (pages 156 *et seq.*) showed that the mandatory Power was doing its best to improve health conditions in Palestine.

He asked whether there was still a surplus of doctors, dentists and other medical practitioners, owing to the effects of Jewish immigration?

Mr. MOODY said the High Commissioner fixed a quota for medical practitioners from amongst persons acquiring Palestine citizenship after December 1st, 1935—namely fifty in 1936, thirty in 1937 and thirty in 1938. Persons who had acquired Palestine citizenship before December 1st, 1935, could become medical practitioners, if qualified, without limit of numbers.

Count DE PENHA GARCIA enquired whether the increase in typhoid fever referred to in paragraph 1, page 156 of the report, had been arrested?

Mr. MOODY replied in the affirmative.

Count DE PENHA GARCIA said the increase in typhoid indicated the need for continuing the health work. Pure water was essential, and steps should, of course, be taken to see that houses were kept clean. Sanitation in both villages and towns required constant attention. No doubt the town-planning activities would be reflected in better health conditions. What was the nature of the district town planning meetings referred to in paragraph 32, page 172 of the report?

Mr. MOODY said the town planning of Palestine as a whole was under the control of the Town Planning Adviser. When town plans in relation to smaller areas such as districts had to be considered, the Town Planning Adviser, together with the District Commissioner concerned and the officials of the health and other departments, constituted local town planning committees to deal with local problems. These committees were official, but they took account of the advice and views of private persons whose property was involved.

Count DE PENHA GARCIA noted from paragraph 30, page 172, that sufficient local technical staff was not available.

Mr. MOODY said this was a matter which could only be remedied in course of time. The staff referred to were the officials of municipal councils; and it must be remembered that in Palestine institutions had not reached the same stage of development as in Europe.

The situation would, he thought, be greatly improved as the Town Planning Adviser continued to work with the local commissions. As far as he was aware, there was no intention of appointing additional local technical staff: indeed, the municipalities would be unable to afford it.

Count DE PENHA GARCIA asked whether there was any law on the expropriation of property for town planning purposes.

Mr. MOODY understood that there was a law for expropriating land for public purposes; but it was not likely to be used for the promotion of extensive town planning schemes.

Count DE PENHA GARCIA observed that, in the absence of an expropriation law, town planning work would inevitably be limited.



Mr. MOODY said it was still more limited by the lack of funds. Even when land was expropriated, it had to be paid for at market prices.

Count DE PENHA GARCIA noticed from paragraphs 33 and 34, pages 172 and 173, of the report, that building activity had slowed down. This was a further effect of uncertainty as to the ultimate future of Palestine on the general position in the country.

#### PUBLIC FINANCE.

M. RAPPARD congratulated those responsible for the chapter on public finance, which was very well presented (pages 173 *et seq.* of the report).

The figures down to March 31st, 1937, were somewhat disquieting ; but since then the situation had improved. He noticed a striking reduction in Customs revenue amounting to £P731,767 (page 173 of the report). The adverse effect on trade of the strike and disturbances in the first six months of the financial year was said to be reflected in a fall in the total value of imports (paragraph 3, page 173). On page 236, however, imports for home consumption were said to have increased by £P1,924,643 as compared with the preceding year. Of course, the figures related to different periods. The strike had subsided ; but the disturbances had grown worse. It was interesting to note these fluctuations ; and fortunately the situation had improved during the course of the year 1937. He presumed an increase in revenue could be expected in the next fiscal year, which would contain nine months of 1937. It was fortunate that the country had such large surplus funds to draw upon.

M. Rappard noted that revenue from interest had increased from £P141,279 in 1935/36 to £P150,730 in 1936/37 (page 176 of the report).

Reference was made on page 211 of the report to the Police Fines Fund of £P3,459. He presumed fines levied by the police were not regarded as annual revenue, but were paid to a capital fund.

Mr. MOODY thought the explanation of the increase of £P2,000,000 in imports was that stocks depleted during the strike were replenished during 1937.

Police fines were paid into revenue, but were used for specific purposes laid down in an ordinance or by regulations. A special account was kept of these funds.

#### Trans-Jordan : Examination of the Annual Report for 1937.

##### ELECTIONS TO THE LEGISLATIVE COUNCIL.

M. PALACIOS referred to the statement on page 302, paragraph 15, of the report, to the effect that the elections for the fourth Legislative Council were keenly contested and that the first session of the new Council was opened by the Amir on November 1st. Were there any disorders during the elections ? Could the next report contain information on the composition of the new Legislative Council according to parties ?

Mr. KIRKBRIDE said that there had been no disorder whatever during the course of the elections.

##### MUNICIPAL COUNCILS.

M. PALACIOS observed that in page 311 of the report, paragraph 2, it was stated that a new municipal law was passed by the Legislative Council in December 1937 and would come into force on April 1st, 1938, with regard to the working of the Municipal Councils.

##### BEDOUIN POPULATION AND SETTLEMENT.

M. VAN ASBECK said the Commission had been informed about two years previously<sup>1</sup> that there were 30,000 Bedouin in Trans-Jordan. What were their numbers at the present time ?

Mr. KIRKBRIDE said that the figure of 30,000 had been an estimate. He had no reason to suppose there had been any appreciable increase since then.

M. VAN ASBECK asked whether the settlement of the Bedouin was proceeding. The 1936 report had referred to the difficulty of accustoming them to a regular life.

Mr. KIRKBRIDE said that the scheme for settling the Bedouin on the land was proceeding, though not rapidly.

<sup>1</sup> See Minutes of the Twenty-ninth Session of the Commission, page 77.

LAND TENURE : QUESTION OF INCREASING THE AREA OF CULTIVABLE LAND BY MEANS OF IRRIGATION.

M. VAN ASBECK asked whether the partition of Masha'a Land was proceeding (page 313 of the report).

Mr. KIRKBRIDE replied in the affirmative, and added that a grant had been made from the Colonial Development Fund for the acceleration of land partition and settlement.

M. VAN ASBECK asked how the Land Settlement Court was composed.

Mr. KIRKBRIDE said it consisted of a single Arab judge.

Mlle. DANNEVIG asked whether additional land could not be made available by irrigation and the sinking of wells.

Mr. KIRKBRIDE said an investigation was being made into the water resources of Trans-Jordan and the possibility of bringing additional land under cultivation through irrigation.

VILLAGE COUNCILS.

M. VAN ASBECK did not understand the reference to village councils on page 305 (paragraph 18) of the report. In 1936, the accredited representative said there were no village councils because they would be foreign to the administration inherited from the Ottoman Government.<sup>1</sup>

Mr. KIRKBRIDE said that the village councils in question had no legal standing or powers : they consisted of mukhtars and village elders.

NATURALISATION.

M. PALACIOS said that at the thirty-second session of the Commission,<sup>2</sup> the accredited representative was asked for information with regard to the refusal of applications for naturalisation. It was stated on page 321 of the annual report for 1937 that applications for naturalisation were refused in three cases in 1936. What was the previous nationality of the persons acquiring Trans-Jordan nationality referred to on the same page ?

Mr. KIRKBRIDE said this information would be provided in the next report.

JUDICIAL ORGANISATION : TRIBAL COURTS.

M. VAN ASBECK noted that justice was administered more satisfactorily by the tribal courts (paragraph 25, page 307 of the report), but important cases (such as cases of compensation for blood, honour and horse partnership) went to the Government courts. Was not that a disadvantage for the good administration of justice ?

Mr. KIRKBRIDE said that, in any event, the tribal courts only dealt with cases concerning certain specific tribes named in the Tribal Courts Law. Cases of compensation for blood, honour and horse partnership were referred to the tribal courts when the agreement had been reduced to writing, in circumstances where the mutessarrif was of opinion that the parties, by ancient custom, followed tribal procedure, if such cases occurred between members of nomadic and non-nomadic tribes or between members of non-nomadic tribes.

M. VAN ASBECK asked whether the magistrates in the magistrates' court were Trans-Jordanians.

Mr. KIRKBRIDE replied in the affirmative.

M. VAN ASBECK asked where they received their training.

Mr. KIRKBRIDE said some had trained in the Law School, Damascus, some had passed through the Government Law Classes at Jerusalem, and others had acquired their training in actual practice, having begun their careers as clerks in the courts.

<sup>1</sup> See Minutes of the Twenty-ninth Session of the Commission, page 78.

<sup>2</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 131.

REACTION IN TRANS-JORDAN TO THE PALESTINE DISTURBANCES : QUESTION OF PUBLIC SECURITY.

The CHAIRMAN drew attention to the chapter on public security (pages 298 to 300 of the report) ; this matter formed the subject of an observation by the Commission at its thirty-second session.<sup>1</sup>

ECONOMIC EQUALITY : AGREEMENT BETWEEN HIS BRITANNIC MAJESTY AND HIS HIGHNESS THE AMIR.

Count DE PENHA GARCIA presumed that the information given in paragraph 3, page 335 of the report, was intended to assure the Commission that the principle of economic equality would be respected.

Mr. KIRKBRIDE said that provision was made in the Agreement between His Majesty the King and His Highness the Amir for the tendering of advice to His Highness, in order to enable His Majesty's Government to carry out its international obligations, whatever they might be.

ECONOMIC SITUATION : IMPORTS AND EXPORTS.

M. GIRAUD noted from the statistics that the economic situation was favourable. Crops amounted to three times the production in the previous year in some cases. Exports of cereals had trebled (page 382 of the report), and exports in general were more than doubled (page 382). Imports also had increased (page 376 of the report). In the table on page 384 of the report, no figures were given for exports to Nejd, and it was stated that there were no figures for that trade. On the other hand, the same table gave statistics of imports from Nejd. How was it possible that there should be statistics of imports from that country and no statistics of exports thereto ? Were there Customs posts where the principal caravan routes could be controlled ?

Mr. KIRKBRIDE pointed out that the table referred to covered both imports and exports. Customs posts were maintained on all the principal trade routes to and from Trans-Jordan. There was a gap in the Statistics Office records in so far as part of the trade between Trans-Jordan and Nejd was concerned ; but it would no doubt be remedied in time.

M. GIRAUD asked why there had been so great an increase in exports to Syria since 1937 ; they had increased in value from £P29,781 to £P106,861 (page 379 of the report).

Mr. KIRKBRIDE said trade between Syria and Trans-Jordan had increased considerably in 1936 because of the disturbed state of the Palestine market. The commercial ties formed during that period were not all broken when Palestine returned to a more normal state of affairs.

MISSIONS.

M. PALACIOS said a list of missions working in Trans-Jordan was given on page 347, paragraph 7, of the annual report for 1936. At the thirty-second session, the accredited representative had been asked to be good enough to give in the next report information about the approximate strength of each type of mission.<sup>2</sup> It appeared from page 337, paragraph 7, of the report for 1937 that the number of foreign adults in these missions was sixty-six.

Could it be assumed that there had been no change in the number of missions in 1937, and were persons of Trans-Jordanian nationality also members of the foreign missions ?

Mr. KIRKBRIDE knew of no appreciable change in the number of missions. As the report stated that the numbers given represented *foreign* adults in the missions, he presumed that Trans-Jordanians were excluded.

ARAB LEGION.

M. SAKENOBE noted that provision was made in 1937 for an increase in the strength of the Arab Legion (page 337 of the report). What was the reason for the increase, and would it be maintained ?

Mr. KIRKBRIDE said the principal reason was the importance of controlling the frontiers at a time when the neighbouring territory of Palestine was in a troubled state. He could not say whether the increase would be maintained.

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 129 and 233.

<sup>2</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 133.

#### ARMS AND AMMUNITION.

M. SAKENOBE asked why permission was given to manufacture blasting-powder under Government supervision and control during the recent disturbances in Palestine (page 349 of the report). Was it manufactured for the Government ?

Mr. KIRKBRIDE said the blasting-powder manufactured in Trans-Jordan was for ordinary quarry work.

#### HOLY DAYS.

M. PALACIOS said that at the thirty-second session of the Commission,<sup>1</sup> the accredited representative had been asked a question about holy days in Trans-Jordan. While he was unable to give a definite reply, he said he thought the only official holy days in Trans-Jordan were those observed by the Moslems. On page 310, paragraph 43, of the annual report for 1937 would be found a list of holy days in Trans-Jordan. Among them were the Anniversary of Arab Revolt and Independence Day. M. Palacios believed the origin of the former was the revolt against the Turks, the revolt in the desert, about which there was a well-known book ; but what was the origin of the other ?

Mr. KIRKBRIDE said the Anniversary of Arab Revolt was the anniversary of the rise of the Sherif of Mecca (afterwards King Hussein) against the Turks. Independence Day was the day on which Trans-Jordan enacted its Organic Law after the conclusion of the agreement between His Majesty the King and His Highness the Amir.

#### LABOUR.

M. PALACIOS noted that the general idea of labour legislation promoted by the International Labour Organisation was viewed with sympathy, but was not regarded as applicable to Trans-Jordan in its present state (page 348 of the report). Nevertheless, reference was made on the same page to certain undertakings given by certain factory owners in regard to the employment of children. Did these undertakings really indicate a wish to comply with the spirit of international provisions ? He thought the industries that were growing up were rather carried on in the home.

Mr. KIRKBRIDE said the undertakings in question related to two tobacco and cigarette factories at Amman which had been found to be employing children under the minimum age provided for in Labour Conventions. The Government made representations to the factory owners, who readily undertook not to employ children below the prescribed minimum age.

#### ECONOMIC REPERCUSSION OF THE STRICTER CONTROL OF IMMIGRATION INTO PALESTINE.

M. VAN ASBECK asked what were the means of subsistence of tribes from Trans-Jordan who were deprived of their source of livelihood by the stricter control over immigration now exercised by the Palestine Administration (page 312).

Mr. KIRKBRIDE said they lived on what work they could find in Trans-Jordan, mainly agricultural work.

#### ALCOHOL AND SPIRITS.

M. SAKENOBE drew attention to the discrepancy between the quantities of certain liquors manufactured by distillers as stated in the reports for 1936 and 1937 (pages 350, paragraph 7 and 384, Table C, of the report for 1937 ; and page 359, paragraph 7, of the report for 1936).

Mr. KIRKBRIDE said this discrepancy had been brought to his notice. He would look into the matter.

#### DRUGS.

M. SAKENOBE noted that there had been an increase in seizures of dangerous drugs (paragraph 5, page 350 of the report). Were these drugs employed by the Trans-Jordanians or re-exported ?

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, page 133.

Mr. KIRKBRIDE said there was little addiction to drugs among native Trans-Jordanians. Any consumption of drugs in the country was due to residents of other origins ; Egyptians were the main offenders in respect of hashish. He was unable to say whether there was any re-export of drugs smuggled into Trans-Jordan.

#### EDUCATION.

Mlle. DANNEVIG asked whether many applications for education had to be refused, and what steps were taken to improve the situation.

Mr. KIRKBRIDE said that a good many applications for the admission of children to schools still had to be refused. Everything was done, as far as the financial situation permitted, to improve matters. A municipal education rate had been introduced in Amman and Es Salt ; and, as a result, several new schools had been opened.

Mlle. DANNEVIG asked whether a similar rate would be introduced elsewhere.

Mr. KIRKBRIDE said that the Government intended to encourage other municipalities to introduce a similar rate as and when circumstances permitted. The imposition of this additional taxation had not aroused opposition ; in fact, the contrary was the case in so far as fathers of families were concerned.

Mlle. DANNEVIG asked whether the attitude of pupils and teachers during the disturbances continued to be satisfactory.

Mr. KIRKBRIDE replied in the affirmative.

#### PUBLIC HEALTH.

Count DE PENHA GARCIA asked for information in the next report about the nationality of the health personnel referred to in paragraph 1, page 357 of the report.

Mr. KIRKBRIDE took note of this request.

Count DE PENHA GARCIA asked whether there was still a dearth of medical practitioners.

Mr. KIRKBRIDE said the profession was not overcrowded, but the needs of the country were reasonably met.

Count DE PENHA GARCIA asked whether the Desert Mobile Health Unit (paragraph 19, page 363 of the report) had proved a success and whether other units would be formed.

Mr. KIRKBRIDE said that it had been successful, but that there was no intention of forming other similar units at the moment.

Count DE PENHA GARCIA would welcome further information in the next report.

#### PUBLIC FINANCE.

M. RAPPARD pointed out that Trans-Jordan enjoyed moral and psychological independence side by side with financial dependence on the British taxpayer. He wondered whether the inhabitants fully realised their situation, and what would happen if they pressed their claims to independence to a point at which the British taxpayer lost patience.

Sir John SHUCKBURGH hoped that such a contingency would not arise.

M. RAPPARD enquired what was the difference between " estimates " and " forecasts " in the report.

Mr. KIRKBRIDE said estimates were made before the beginning of the financial year to which the figures referred ; forecasts were made part way through the year, when it was possible to anticipate with some accuracy the final position.

CLOSE OF THE HEARING.

The CHAIRMAN thanked the accredited representatives for their co-operation and for the patience and goodwill they had displayed in answering the numerous questions put to them.

Sir John SHUCKBURGH was grateful for the Chairman's remarks. The accredited representatives had greatly appreciated the courtesy and consideration shown to them.

It was important and, indeed, essential that the two bodies represented on these occasions—the Permanent Mandates Commission and the accredited representatives of the mandatory Power—should meet as colleagues and not disputants; and that their joint efforts should be directed towards improving the administration of the mandated territories and overcoming serious difficulties, such as had arisen in the case of Palestine.

The CHAIRMAN said the accredited representatives would not fail to have observed that the Commission had conducted its examination of the annual report with due regard to the very difficult situation in Palestine.

Sir John SHUCKBURGH cordially agreed; that was precisely what he had intended to convey in his remarks.

Sir John Shuckburgh, Mr. Moody and Mr. Kirkbride withdrew.

**Syria and Lebanon : Date of Examination, in the Presence of the Accredited Representative of the Mandatory Power, of Petitions : Communication to the Commission of Proofs of the Annual Report for 1937.**

The CHAIRMAN informed the Commission that M. de Caix would be available on June 14th, when they would have an opportunity of putting to him any questions relating to petitions from Syria and also to the request by the French Government that the consideration of the annual report be postponed.

The report would be communicated to them in proof form, which would assist them in preparing their questions. They would, of course, receive the final report in time for the autumn session.

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EIGHTH MEETING.

*Held on Monday, June 13th, 1938, at 10.30 a.m.*

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**South West Africa. Examination of the Annual Report for 1937.**

Mr. C. T. te Water, High Commissioner for the Union of South Africa in London, and Mr. H. T. Andrews, Permanent Delegate of the Union of South Africa to the League of Nations, accredited representatives of the mandatory Power, came to the table of the Commission.

WELCOME TO THE ACCREDITED REPRESENTATIVES.

The CHAIRMAN welcomed Mr. te Water and Mr. Andrews. They had both appeared on several occasions before the Commission. He thanked the mandatory Power for its very elaborate and complete report.

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

Mr. TE WATER made the following statement :

Mr. President, may I first of all thank you for your words of welcome to my colleague and myself. For our part, it is always a great pleasure and privilege to appear before this important body, and it is my desire, as it is the desire of my Government, to give the Commission as much information as is possible.

I have no formal statement to make, but there are one or two observations which I think might be valuable to the Commission in anticipation of questions which may be put to me.

First of all, on examination of the report on the period under review, it can be said generally that it was a prosperous period. The South West African territory was fortunate in having good rains; and that is all-important from the point of view of the welfare of both European and native populations.

The report shows a period of higher prices and, from the point of view of the native, better wages and better crops. It is to be observed that the territory itself has been opened up considerably by the building of new roads, and that motor transport has been extended in a territory which depends so much upon transport. That particular form of transportation has been characterised as great boon to the territory.

The finances of the period under review show an unusual buoyancy. But, as always happens when revenues are buoyant, there is to be observed an increase of expenditure, and I have no doubt that members of the Commission will have some questions to put on that point. Nevertheless, it did become necessary to borrow to the amount of £135,000 from the mandatory Power in order to balance the 1936/37 budget; but henceforward, as is known to the Commission, the Administration will be relieved for an indefinite period from budgeting for interest on and redemption of this debt, which will in future be debited to a suspense account by the Union Government.

The year 1937/38, which has just concluded, proved an even more buoyant year from the point of view of revenue. Indeed, it is one of the best financial years that the Administration has experienced. An anticipated deficit was turned into a small surplus for the first time for many years, while all minor debts which had been outstanding against the Administration have been cleared, and the only debt with which the Administration is now faced is that which it owes to the Union on its borrowed moneys.

It might interest the Commission to know that the budgetary statement for this year, 1938/39, has also been issued by the Administrator, who sounds a note of caution therein. It appears that the diamond market suffered a considerable setback at the beginning of this year, and the anticipation is that the receipts from the Diamond Tax will fall off very considerably. The Administrator also drew attention to signs of a slowing-down of the forward economic movement in the territory itself, a slowing-down process which, he believes, will run concurrently with a similar tendency in the Union. For these reasons he sounds a note of caution.

In his budgetary statement the Administrator informed the Legislative Assembly this year that it will be very necessary for the citizens of South West Africa to be both thrifty and self-helping, while it will be the part of the Administration itself to proceed with greater caution than it has done in the past.

I now turn to questions of politics, which I know are always of great interest to the members of this Commission. The Administrator has informed me that the political "temperature" of South West Africa is at the moment more "normal" than it has been for some time. The Union Government itself has, I think, stated the whole question very clearly in this report, which says in its last paragraph (page 152) that the Government has every confidence that the mellowing influence of time and the necessity to co-operate in the promotion of common interests will gradually exercise their beneficial effects. That, of course, is a hope; it may be a pious hope, but it is nevertheless a hope which both the mandatory Power and the Administration express.

In this regard I should say that the co-operation between the two sections of the territory, a co-operation which was so much emphasised by members of this Commission at the last hearing,<sup>1</sup> is hampered to a considerable extent by the inherent uncertainty of the political future of the territory. That is a constant factor in the political situation in South West Africa which makes government difficult. It is a factor of which every member of the Commission is aware. If one remembers the different crises through which Europe has passed during the last year, it can be readily appreciated how the territory reacted immediately to those crises, and how those reactions made the situation difficult from the point of view of government. But in spite of these difficulties, which, as I have said, are inherent in the political situation of the territory, the Administrator does report that the atmosphere has been clearer and that government has been easier during the last few months.

I have no desire to elaborate my opening statement to any great extent, but I think I am justified in saying that the report for 1937 is a demonstration of the Administration's vigilance in regard to the interests of the natives. I am inclined to think that of all the reports which I have studied since 1930, this one can be most aptly described as a report on native affairs. It can, I think, be described as a very genuine effort to meet the Commission's explicit position (which was referred to at the last hearing by members of the Commission and particularly by its Chairman)<sup>2</sup> under Article 22 of the Covenant. In a sense, the emphasis placed on native affairs may be said to be a departure from the normal standard of our reports; but, whether that is so or not, I am sure it represents a practice which the Commission will commend. It is a practice which is in the spirit of the trust which has been placed upon the mandatory Power—a practice, the continuance of which I myself will press upon the Administration.

The CHAIRMAN thanked Mr. de Water for his statement, and expressed the Commission's appreciation of the mandatory Power's efforts to make the annual report meet the suggestions previously advanced by the Commission.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 192.

<sup>2</sup> *Ibid.*, page 124.

GENERAL ADMINISTRATION : QUESTION OF THE INCORPORATION OF SOUTH WEST AFRICA IN THE UNION AS A FIFTH PROVINCE : RELATIONS BETWEEN THE VARIOUS EUROPEAN ELEMENTS IN THE TERRITORY : RESTRICTION OF THE ACTIVITIES OF POLITICAL ORGANISATIONS (PROCLAMATION NO. 51 OF 1937) : ACTIVITIES OF THE GERMAN PARTY : QUESTION OF TRANSFERRING TO THE LEGISLATIVE ASSEMBLY THE POWER TO MAKE ORDINANCES.

The CHAIRMAN said that he had been much struck by the accredited representative's words concerning what he called the uncertainty as to the political future of the territory. Surely such uncertainty could only exist among the ill-informed and not in official circles?

Mr. TE WATER replied that there was constant controversy about the future of mandated territories; in the case of South West Africa that controversy was being kept alive by a section of the population. At the same time, the policy of the Government of the Union of South Africa had been and remained perfectly clear: it did not intend to surrender the mandate.

M. PALACIOS said that was true, but perhaps the Government had not entirely removed all doubt as to the incompatibility of the Fifth Province with the mandate. And, with special emphasis on the character of the questions raised by the Chairman, he drew attention to the discussion in the Commission in 1937 about the status of the territory, and to the Commission's observations to the Council on this subject at its thirty-first session.<sup>1</sup>

The mandatory Power had replied to these observations on pages 151 and 152, paragraph 833, of the report for 1937. It had also communicated the *Official Gazette*, No. 707, with Proclamation No. 51 of 1937.

At the end of the mandatory Power's reply (page 152 of the report) would be found the following conclusion:

" . . . it can be stated that some improvement in the political atmosphere in the Territory has become evident since the issue of Proclamation No. 51 of 1937, which regulates and restricts the participation of non-British subjects in the public and political life of the Territory. The Union Government feels, however, that legislation, no matter in what form it may be devised, never can nor will rectify a state of affairs which has for its root cause the lack of mental affinity and purpose between the various elements of the European population in the territory. It has, however, every confidence that the mellowing influence of time and the necessity to co-operate in the promotion of common interests will gradually exercise their beneficial effects."

M. Palacios had some hesitation in believing that the policy of prohibiting non-British subjects from joining political organisations such as the *Deutscher Bund*, the *Deutscher Südwest Bund*, etc., would have a mellowing influence on the European population of the territory, as the Government of the mandatory Power hoped. Was not the contrary, perhaps, to be feared as a result of the ban? Nationalist and other movements might, as everyone was aware, smoulder underground for a long time, in spite of prohibition, and emerge suddenly, even violently. There were already signs of this. The following passage occurred, for example, in the *Deutsche Allgemeine Zeitung*, Berlin, of March 28th, 1938:

" On March 26th, 1938, there was a discussion at Windhoek between the representatives of the *Deutscher Südwest Bund* from all parts of the territory and the five German deputies.

" During this discussion the whole political situation was discussed fully. The following resolution was unanimously adopted against the annexationist policy of the United National South West Party as expressed at the meeting held at Windhoek on February 17th:

" " The *Deutscher Südwest Bund* protests most strongly against the annexationist aspirations of the United National South West Party and against any attempt to change the mandatory character of the territory. The Bund regrets that such propaganda will inevitably lead to further disturbances of the peace among the population of the South West.

" " Against such aspirations the *Deutscher Südwest Bund* declares that in the future, as hitherto, it will strongly support the maintenance of the mandatory character of the country, having faith in this country's future, until an equitable settlement has been reached of the German demands for colonies."

According to paragraph 10, page 4 of the report, the *Deutscher Südwest Bund* was declared to be a political organisation as from December 15th, 1937. More than three months after that date, the representatives of the organisation, which non-British members could no longer join, passed resolutions of a somewhat political character.

Could the accredited representative give the Commission any information on that subject?

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 192.



What had in fact happened at the meeting of the United National South West Party referred to in the resolution of the Deutscher Südwest Bund ?

M. Palacios desired, in particular, to point out that the latter organisation fully supported the mandate against those who were anxious to change its character constitutionally.

Mr. TE WATER said that the question raised the whole issue of policy. The Union Government's attitude had been made perfectly clear at the thirty-first session of the Commission. In the words of the annual report for 1936 (page 4) :

“ The Union Government was of the opinion that to administer the territory as a fifth province of the Union, subject to the terms of the mandate, would not be in conflict with the terms of the mandate itself ; yet it felt that sufficient grounds had not been adduced for taking such a step.”

It followed that the Union Government's policy was not of an annexationist character. It was clear that one section of the population, namely a part of the German community, found in vigorous opposition to a supposed annexationist policy a useful method of furthering its own ends, which were to effect re-union with Germany. Conflict and friction had resulted, and the Administration had been compelled to take action. Although the policy of limiting the activities of political associations might be thought wrong, yet he would ask the Commission to believe that there had been no possible alternative, in view of the tension then prevailing. There had in fact been some improvement in the situation since the decision indicated on page 4, paragraph 10, of the report of 1936.

Mr. te Water wished to make it clear not only that the purpose of Proclamation No. 51 of 1937 had been to limit membership of political associations to British or naturalised subjects, but also that the former Deutscher Bund had been voluntarily wound up in June 1937, and that it was at the request of its own members that the new Deutscher Südwest Bund had been declared a political organisation in December 1937.

M. PALACIOS said that the following organisations had been declared political as from July 1st, 1937 (see *Official Gazette* of April 17th, 1937) :

The Deutscher Bund, afterwards transformed ; the United National South West Party ; the Economic League of South West Africa.

Was the last-mentioned organisation regarded as political in spite of the word “ economic ” ?

Mr. TE WATER confirmed that the Economic League of South West Africa had in fact political objects.

M. SAKENOBE asked whether there had been any convictions for offences against Proclamation No. 51 of 1937 concerning political organisations, and whether there had been violation of the immigration regulations governing the admission of certain aliens to the territory.

Mr. TE WATER believed that there had been no violations of Proclamation No. 51. He undertook to enquire as to violations of the immigration laws.

M. VAN ASBECK regretted that the constitutional issue, which was of great importance, should have been dealt with at the very end of the report. He appreciated, however, that the Mandates Commission's observations were only made available late in the year, when the bulk of the annual report had already been printed.

He drew attention to a debate held on April 5th, 1938, in the Legislative Assembly of the Territory of South West Africa, at which it had been proposed to request the Union Government to transfer to that Assembly power to make ordinances in regard to various matters, of which the most important was the control of the police. The report of that debate made it clear that there was very bitter feeling concerning both the constitutional issue and the activities of the German Party. One speaker felt that matters had gone so far that it would be preferable to abolish the Legislative Assembly of South West Africa altogether. The debate was not a good example of the “ mellowing influence of time ” in which the mandatory Power placed so much hope.

Mr. TE WATER said that, although he had no official cognisance of the matter, he had read reports of the debate and been struck by its bitter character. The incident was unfortunately not unusual ; but he pointed out that it had occurred at a moment of great tension in Europe. As he had already suggested, conflict and tension in South West Africa were in direct proportion to the state of uncertainty and apprehension prevailing on the European continent. Reaction to European developments was automatic and immediate.

M. VAN ASBECK asked whether external influences were still at work. It was well known from the petition of Dr. Hirsekorn, which had been discussed during the thirty-third session,<sup>1</sup> and from information given by the mandatory Power, that the old Deutscher Bund had been in close touch with the German National Socialist Party, and it was often reported in the African and British Press that this latter party was extremely active throughout South Africa, giving propaganda lectures, organising youth movements, etc. He did not, of course, wish to raise the question of political agitation in parts of South Africa other than the mandated territory, except in so far as they affected the situation within the territory, but would like to know whether National Socialist activities perhaps spread from the Union to the territory under mandate, where they would find a favourable field.

Mr. TE WATER replied that since the new Deutscher Südwest Bund had been declared a political organisation, its activities had been pursued with greater caution than formerly. No doubt the extremer German elements, who had been described as being driven underground, were still in existence ; but the Administration felt no special concern on that score. In the Union, political expression was free. There was doubtless a link between agitation within South West Africa and political movement in the Union ; but he felt convinced that, if there were any, it was not a case of agitation filtering into the mandated territory from the Union, but rather the reverse.

In reply to a further question, Mr. te Water said that evidence of intimidation of naturalised Germans from outside had at one period caused great anxiety, and had been one of the reasons justifying the measures taken in regard to political organisations. In recent months, he believed, there had been no direct evidence of intimidation. It could be accepted that the Administration would deal effectively with any cases which might arise. The Union Government had declared its attitude very clearly on that point.

#### QUESTION OF THE RECOGNITION OF GERMAN AS A THIRD OFFICIAL LANGUAGE.

M. VAN ASBECK referred to a discussion at the thirty-third session of the Commission<sup>2</sup> on the subject of the recognition of German as an official language, and asked if anything further had been done in the matter.

Mr. TE WATER replied that there was no change in the situation, and that the declared policy of the Government stood unaltered.

#### NATURALISATION.

M. VAN ASBECK asked whether Proclamation No. 51 of 1937, concerning political organisations and their members, had led to an increase in the number of naturalisations. Was it a fact, as reported by Union newspapers, that the act of applying for naturalisation was commonly represented among Germans as treachery to the Fatherland ?

Mr. TE WATER said that he understood there had been no increase in the number of naturalisations as a result of the Proclamation. The attitude towards naturalisation to which M. van Asbeck had drawn attention was current among the German elements of the population ; but he was not in a position to draw the conclusion that it amounted to intimidation.

#### INTERNATIONAL CONVENTIONS.

Count DE PENHA GARCIA expressed appreciation of the mandatory Power's action in giving in the report a full list of all the international instruments applicable to South West Africa (pages 4 and 146 of the report). He would like the list to be kept up to date and reproduced in subsequent reports, and suggested that it might be divided, for convenience, into three sections : (1) general treaties and agreements ; (2) extradition treaties ; (3) economic and commercial instruments.

Mr. TE WATER said that he would not fail to put that suggestion to the Union Government.

#### PROCLAMATIONS RELATING TO EDUCATION PROMULGATED DURING 1937.

Mlle. DANNEVIG asked for information concerning Proclamations 14, 16 and 36 (page 2 of the Report).

Mr. ANDREWS said that Proclamation 14 related to the payment of various allowances to non-European teachers, with particular regard to local allowance and travelling and subsistence allowance. The other Proclamations touched upon minor matters in respect of the grant of bursaries to students, and maintenance grants to physically disabled children.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, pages 139 *et seq.*

<sup>2</sup> *Ibid.*, page 148.

ADMINISTRATIVE ORGANISATION : RECRUITMENT AND TRAINING OF OFFICIALS.

M. VAN ASBECK thanked the mandatory Power for giving a very complete picture of organisation and establishment. The report contained a particularly valuable table of the administrative mechanism (page 144 of the report).

Little was, however, said concerning the recruitment of officials. At the thirty-first session of the Commission,<sup>1</sup> it had been shown that there was little keenness in the Union of South Africa to enter the administration of the territory, which suffered from an undue proportion of temporary officials.

Mr. TE WATER expressed his regret at having failed to make sure that the question was fully dealt with in the 1937 report. He would, however, request that the defect be made good in the following report.

As regards the treatment of officials, he drew attention (page 14, paragraph 63, of the report) to the fact that the salary reductions imposed upon all officials in 1932/33 had been refunded in 1936/37.

Lord HAILEY recalled that the Commission had discussed at its thirty-first session the desirability of giving special training in native affairs to officials intending to join the South West Africa Administration. Was the Union Government still opposed to that suggestion ?

Mr. TE WATER said that the Government was far from desiring to discourage the acquisition of special knowledge (the Bantu languages, anthropology, etc.) by young officials. There were courses at the universities in native languages and anthropology, and officials generally began or continued such studies after they had taken up their posts, in order to secure promotion. Some knowledge of native affairs, languages and customs was common among South Africans, and this would perhaps explain why the Government had not considered it necessary to make such studies compulsory.

M. SAKENOBE observed that the number of higher officials in the territory was extremely small in relation to the work to be carried out, that the number of native commissioners appeared to be inadequate, and that it seemed a matter for regret that in seventeen districts the magistrates of the courts should be compelled to carry out administrative work (pages 44-46 of the report).

Mr. TE WATER pointed out that apart from the question of expense, which was an important one, account should be taken of the fact that the Administration was deliberately conducted in accordance with a system based on experience in other parts of the Union of South Africa. There were, in addition to the officials mentioned by M. Sakenobe, a number of native Welfare Officers, both in the native reserves and in the mining districts.

The principle of entrusting magistrates with administrative as well as judicial functions was common throughout the Union. It had worked exceedingly well over a long period, and was unlikely to be given up.

M. SAKENOBE noted that all the magistrates were drawn from the Department of Justice of the Union. Were they able to acquire experience in native affairs ?

He found that the total number of native Welfare Officers was only nine (see table, page 144 of the report). They had to attend more than twenty native reserves. That tended to confirm his impression that native affairs were perhaps not as effectively dealt with as they might be.

Mr. TE WATER said that the magistrates drawn from the Department of Justice had opportunities of acquiring experience in native affairs. Here again, the system was of long standing and was believed to work well. As regards the simultaneous exercise of administrative and judicial functions, he could assure the Commission that the local magistrates were greatly respected by the natives and had proved excellent administrators.

The number of native Welfare Officers was admittedly small ; but efforts were constantly being made, in so far as means permitted, to increase it.

Mr. te Water could not agree with the suggestion that native interests were neglected by the Administration. His own contact in 1937 with the two South African officials who had appeared before the Mandates Commission on the last occasion for the examination of the 1936 report on South West Africa had, on the contrary, convinced him that the natives' interests were the very close concern of the Government and of the officials. The natives themselves, moreover, had constantly expressed their appreciation of what was being done for them.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 118.

WELL-BEING AND SOCIAL DEVELOPMENT OF THE NATIVES : IMPROVEMENT OF NATIVE RESERVES.

Lord HAILEY, referring to native administration in general, said that most members of the Commission would agree with Mr. te Water that the Union Government had given proof of its concern for native interests in South West Africa. At the same time, he desired, for his part, to repeat the view expressed by some members during the examination of the 1936 report<sup>1</sup> that the administrative staff, which had to provide for the material as well as the social welfare of the natives, was small and needed expansion.

He also felt some concern on reading (page 51, paragraph 305, of the report) that it was now the Administration's definite policy to discontinue spending substantial sums out of general revenue for development purposes. At a time when the United Kingdom Government was spending large sums in other territories—for example, £114,000 for water supplies in Bechuanaland and £208,000 for tsetse control and £57,000 for improving water supplies in Tanganyika—in the interests of the natives, it was very difficult to accept the view that in South West Africa it was preferable at this stage to teach the natives to depend on themselves. It was not reasonable to tell natives who were in the position of those in South West Africa that they should begin to save up money to improve their water supply and the like. It should be the guiding principle of the Administration to spend as much as possible for those purposes, in the certain knowledge that such a course represented a wise investment.

M. SAKENOBE drew attention to the Commission's recommendation in 1937<sup>2</sup> in favour of direct assistance by the mandatory Power to the territory with a view to the further improvement of conditions in the native reserves. Paragraph 305 on page 51 of the report showed that the view that more money should be spent was shared by the Constitutional Commission. It was evident that the natives were not yet in a position to stand by themselves.

M. TE WATER appreciated the fact that the Mandates Commission as a whole shared the views which had just been expressed. The policy of the Administration, expressed in paragraph 305 (a), that it would be unfair to burden the European population with further taxes for native development when the whole of the native contribution to revenue was handed over to trust funds for expenditure on the natives, was based on the reason given in paragraph 302, namely, that it was the considered opinion of the Administration that it would be unwise to accelerate the development of the native races unduly.

The policy had previously been to spend considerable sums on those purposes ; but a point had been reached where it was felt that the development of the reserves should be borne by the Trust Reserve Funds and perhaps at a slower tempo than the Commission might desire. Experience had definitely shown that the pace of development should not be forced.

At the same time the authorities would not disregard the Commission's opinion ; and he would himself urge that close attention should be given to it.

Lord HAILEY observed that paragraph 302 dealt with social improvements (education, etc.), while paragraph 305 was concerned with material development in the shape of water supplies, health services and so forth. There could be no question of tempo in the matter of water supplies or health measures, especially in a territory in which drought was a periodic affliction. A policy of asking the natives to wait patiently until they could themselves provide essential services was not really consistent with the mandatory Power's own past record as a guardian of native interests in South West Africa. He added that his object was not so much to criticise as to encourage the mandatory Power to do everything in its power to improve native conditions.

The CHAIRMAN said that Lord Hailey had actually repeated an opinion which was general among the members of the Commission ; at the same time, the Commission as a whole was not bound by every word spoken by Lord Hailey. He would give Mr. te Water an opportunity of replying at the beginning of the following meeting.

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 119 and 121.

<sup>2</sup> *Ibid.*, page 192.

NINTH MEETING.

*Held on Monday, June 13th, 1938, at 3.30 p.m.*

**South West Africa : Examination of the Annual Report for 1937 (continuation).**

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

WELL-BEING AND SOCIAL DEVELOPMENT OF THE NATIVES (*continuation*) : IMPROVEMENT OF NATIVE RESERVES (*continuation*) : QUESTION OF THE APPORTIONMENT OF THE BUDGETARY RESOURCES OF THE TERRITORY.

The CHAIRMAN said that paragraph 305, page 51, of the report again contained indications of a conception with which he had been at pains to disagree in 1937<sup>1</sup>—the conception, namely, that a distinction should be drawn between revenue derived from European taxpayers and revenue derived from native taxpayers, with the implication that the natives were strictly entitled to benefit from budget appropriations only in proportion to their contributions to general revenue. Such a conception, wherever held, would prevent any social legislation to improve the position of the lower classes from being adopted. It was bound, in the Territory, to keep alive in the European section of the population the presumption that any appropriation in the budget to ameliorate the condition of the natives represented not an obligation, but an act of generosity from which the Administration was free to refrain. Such a presumption should be discouraged, and it would be a matter for regret if the Administration itself were to show signs of holding such a view.

Mr. TE WATER said he would bring the Chairman's remarks to the notice of the Administration. No doubt they would be dealt with fully in the next report.

In the meantime, he drew attention to what Mr. Courtney Clarke had said at the thirty-first session in reply to the Chairman's observations :<sup>1</sup> " He had only intended to convey that the Administration could not spend disproportionate sums out of the budget for the benefit of the natives when the Europeans were the principal taxpayers."

The policy of the Administration was to set aside native tax receipts in trust funds to be used for the benefit of the natives. Considerable sums were also spent on native welfare and development from European tax receipts.

In reply to the questions put by Lord Hailey and M. Sakenobe at the preceding meeting,<sup>2</sup> Mr. te Water said that the Administration was not opposed to grants for the development of reserves ; but it was of opinion that the process should not be unduly accelerated. It was felt that there was a stage at which the natives needed to be taught self-reliance and independence. The point at issue between the Commission and the Administration was the tempo of expenditure in the interests of the natives.

He recalled the conditions prior to Union occupation and the inception of the mandate. At that time there was no policy of territorial segregation. The tribes were scattered, and moved about in search of rains and pastures. They were not allowed to own large numbers of stock. They were extremely poor. Labour conditions were such as would not be tolerated at the present time.

With the inception of a native policy in 1920, 2½ million hectares of land were set aside as native reserves, whereas now 16 million hectares had been allocated. By 1924 the framework of a native policy similar to that of the Union had been evolved, and officers responsible for native welfare were appointed. That entailed considerable expense, all of which was borne by the European taxpayer.

Between 1920 and 1934 the Hereros were brought together in the Northern Reserves, and the Hottentot tribes were, at their request, moved to the south—a not inconsiderable undertaking. Water-boring was carried out, and water supplies were provided. Of the £33,000 spent on boreholes during this period, only £7,000 came from native funds. A number of dams were erected ; many hundreds of miles of fencing were put up ; and over 1,200 miles of road were completed in Ovamboland.

As a result of the measures taken by the Administration, the spectre of famine was conquered, as was proved by the great famine in 1930, 1931 and 1932, when, contrary to what would have happened under aboriginal conditions, not a single native life was lost.

Great strides had been made in farming methods. The employment system had been improved, and, when better times came to the Territory, the natives benefited from employment (if they wished to do so) at higher wages than before.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 127.

<sup>2</sup> See page 78.

The low mortality and morbidity statistics testified to the improvement in native health.

The Administration watched very closely over the interests of the natives ; and, in face of the above facts, its statement that it did not desire to accelerate development at too great a pace must be accepted as a *bona fide* one.

M. RAPPARD hoped it was clear to the Administration that the Commission's efforts to encourage a generous native policy were not aimed at Europeanising the natives, as paragraph 302, page 50 of the report, would appear to imply, but at teaching them to stand on their own feet,

Some of the natives were said to be very backward, and the Commission was fully aware of that. But the more backward they were, the less self-reliance could be expected of them.

The most disquieting feature was that there seemed to be a change of policy. For years the Commission had urged the Administration to do more for the natives. The Constitutional Commission had endorsed the Commission's views. The Administration now pointed out that it had spent considerable sums on the natives in the early years, but did not see fit to continue that policy. Such a construction could at any rate be put on paragraph 305, page 51 of the report. He hoped it was not the right construction.

M. VAN ASBECK endorsed the remarks of his colleagues on this very fundamental problem of the administration of South West Africa.

Paragraph 305 of the report gave him the impression that a turning-point had been reached in native welfare policy. But the Hereros and other tribes might be likened to persons in a state of convalescence ; and that was hardly the time to tell them to stand on their own feet.

The Administration could hardly be expected to precipitate developments in such a country ; but, as would be seen from the Minutes of the thirty-first session,<sup>1</sup> Lord Hailey had advocated a concerted programme over a number of years, covering both education and material welfare.

The natives were in great need of guidance. Yet the supply of European officers was very meagre in Ovamboland (page 44 of the Report) ; and communications were almost impossible in the rainy season (according to page 121 of the Minutes of the Thirty-first Session of the Commission), when the natives were apparently left to their own devices and deprived of the much-needed advice of Europeans.

Did the Administration intend to increase the number of officials in the north, where more than half the population was living ?

M. van Asbeck was doubtful of the wisdom of encouraging the natives to go out to work in European enterprises and factories, in order to provide the money required by the reserves (paragraph 305, page 51 of the report).

Did the natives pay general taxes as well as taxes to the Native Administration Fund, and was expenditure on native reserves taken from native tax receipts ?

According to the table on page 20 of the report, nothing had been spent on irrigation for the benefit of the natives since 1933. Was that a satisfactory state of affairs ?

Mr. TE WATER was sure the Administration had not misconstrued the Commission's opinion. In using the word "Europeanise", it had had in mind certain observations of the Constitutional Commission.

As to the training of backward races in self-reliance, Mr. Courtney Clarke and Major Hahn had made it quite clear at the thirty-first session of the Commission<sup>2</sup> that, in view of the vastly different stages of civilisation reached by different races, the territory presented a highly complicated problem. The "gap in civilisation" between the Hereros and the Damaras was as great as that between the Damaras and the Bushmen. The teaching of self-reliance was therefore a relative matter. The Ovamboland, having lived under settled conditions for hundreds of years, were easier to teach than the Bushmen or Damaras. The Bushmen were almost unteachable ; and one of the great difficulties with which the Administration was faced was how to preserve this very interesting race. The best method, in all probability would be that suggested at the thirty-first session<sup>3</sup>—their absorption into other tribes.

The Commission seemed to be under some misconception. The Administration had no intention of departing from its former policy ; but it did not wish to accelerate expenditure beyond the point at which the natives could appreciate what was being done for them.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 136 and 137.

<sup>2</sup> *Ibid.*, page 138.

<sup>3</sup> *Ibid.*, page 123.

Account would certainly be taken of the Commission's strictures, which would, he hoped, be fully met in the next report.

The Administration would no doubt agree, in principle, that the number of European Welfare Officers in the north of Ovamboland should be increased. It would be seen from the report that a station was to be opened south of the Kunene at Ohopuho, where an aerodrome was being constructed. M. van Asbeck's suggestion would be placed before the Administration, and, if the financial situation permitted, additional officials would no doubt be appointed.

The table on page 20 of the report related to expenditure on natives out of the finances of the Administration, which had risen from £32,646 in 1933 to £57,467 in 1938. Boring still continued; but the expense was met out of the Trust Funds.

With regard to M. van Asbeck's remarks about the policy of encouraging the natives to go out to work, Mr. te Water pointed out that territorial segregation was not at the same time economic segregation. The natives left the reserves in both the Union and the Territory to earn money to assist them in their life in the reserves, and incidentally the money they brought back with them assisted in building up the Reserve Funds. No doubt as they became self-supporting, they would have less desire to leave the reserves. In the meantime, they had two means of improving their economic position—firstly by growing crops in their reserves (in which case the work was usually done by the women), and raising stock and, secondly, by hiring out their labour to farms and industries. There was no likelihood of any reversal of this state of affairs within measurable time.

M. RAPPARD said it was difficult to square Mr. te Water's statement with the statement in paragraph 305, page 51 of the report, to the effect that the Administration was of opinion that to continue its former policy would not be in the interests of the native population. The statement in paragraph 305 clearly seemed to announce that the Administration intended to change its policy.

Prices had risen and the financial situation had improved. Consequently there was a greater demand for labour on farms and in industrial enterprises. The report even went so far as to say that there was a considerable shortage of agricultural labour, necessitating the importation of native labour from outside the Police Zone, and that some adjustment in wages might be required (paragraphs 78 and 79, pages 20 and 21 of the report). On the other hand, the policy of making grants for native affairs was to be discontinued.

M. Rappard could not help fearing that the motive underlying this change might be the desire to prevent an undue rise in wages by increasing the supply of labour. Such a conclusion might at least be drawn by persons reading the report with preconceived ideas; and that might be politically unfortunate.

Mr. TE WATER again emphasised that the Administration was not opposed to grants, but to undue acceleration of development. He had never heard of any such suggestion as that put forward by M. Rappard. The passages referred to merely stated facts. There was certainly no deeply laid plot to prevent the natives from sharing in the improved economic conditions of the Territory.

He only regretted that it was not possible for the Commission to visit South West Africa. He was sure the members would find there a state of affairs which would impress them as much as it had impressed their former Chairman, M. Theodoli.

M. RAPPARD did not intend to suggest that the policy was to prevent natives from sharing in the improved economic condition of the Territory. His point was that to discontinue grants was one way of ensuring that the increased demand for labour would be met.

Mr. TE WATER said there was no justification for imputing such a motive to the Administration.

M. RAPPARD was glad to have elicited this gratifying declaration.

Mlle. DANNEVIG asked how the natives could develop, if the Administration withheld grants. They were poor and their wages were low. They had very little stock beyond a few goats. The men left the reserves to work and depended on the women for support.

Mr. TE WATER said this raised in a slightly different form the very question which he had tried to meet. Mlle. Dannevig was under some misapprehension. It was customary for the women to work in the fields: such work was never done by the men. Native races, such of them as were not debased—the Ovamboland in the Territory, for instance, or the

natives of the Transkeian territories in the Union—led very happy lives. That did not mean that nothing should be done to improve their condition. There was always room for improvement, as there was room for improvement in European countries.

Mlle. DANNEVIG found it difficult to understand the accredited representative's remarks. They seemed to suggest that all was for the best in the best of all possible worlds. She was well aware of the position of native women, but wanted to suggest that it was difficult, not to say impossible, for the natives to develop if they were left to their own resources and the wages of the men were left exceedingly low because the women could support themselves and their children.

Mr. TE WATER asked to be permitted to digress a little in order to illustrate his point. He would remind the Commission that the millions living in the slums of the great cities of Europe led an infinitely more miserable life than the natives. If this were still the state of affairs in Europe after hundreds of years of effort to improve the social condition of its peoples, how could it be expected of the Administration of the mandated territory, which was faced with an intricate and difficult problem, to produce better results in so short a period of time ?

#### DEMARCATION OF RESERVES FOR THE BUSHMEN.

M. VAN ASBECK, referring to paragraph 305, page 51 of the report, expressed the hope that the next report would contain information with regard to the steps taken to demarcate reserves for the Bushmen.

#### REHOBOTH COMMUNITY.

M. VAN ASBECK noted from page 1 of the report (C. Proclamations by the Administration) that under Proclamation No. 1 with regard to the survey and registration of immovable property belonging to members of the Rehoboth Baster Community, the agreement concluded between the Administrator and the Captain of the Rehoboth Community and the members of the Raad of the said Community had been amended. Was it legally possible to amend the Agreement by a one-sided proclamation ?

Mr. TE WATER drew attention to Proclamation No. 28 of 1923 and said the Administration had power, under the 1923 Agreement, to extend any law in force in the territory to the Rehoboth Community, if expedient and desirable. Before such action was taken, the Rehoboth Community was consulted through its Raad, as was provided for in the terms of the Agreement.

#### SQUATTING.

Lord HAILEY, referring to paragraph 288, page 46 of the report, would welcome fuller information in the next report about the steps taken to deal with squatting on European land. The practice was clearly a potential source of great injury to the natives, many of whom had, as the Report showed, no lands to which to return when turned out in times of depression. That seemed to be an additional ground for pressing on with the development of the reserves.

Mr. TE WATER said that the Administration would be happy to place all the information available at the disposal of the Commission in the next report.

#### QUESTION OF OVERCROWDING IN URBAN LOCATIONS.

Lord HAILEY said the old South African problem of the urban native arose in connection with paragraph 291, page 47 of the report. He would be glad of fuller information on the application of the measures now being taken to prevent overcrowding in urban locations, and a reference to the law which was being applied.

Mr. TE WATER took note of this request.

#### ADMINISTRATION OF THE KAUKAUVELD AND OF THE WALVIS BAY DISTRICT.

M. SAKENOBE asked how the Kaukaveld was administered.

Mr. TE WATER had no information on the point.

M. SAKENOBE asked what was the position of the district round Walvis Bay.



Mr. TE WATER said Walvis Bay formed part of the Union, to which it had belonged even in the time of the German occupation of South West Africa. For administrative purposes it came under South West Africa—*vide* Section 43 of the South West Africa Constitution Act of 1925.

#### MUNICIPALITIES.

M. VAN ASBECK, referring to the statistics of municipalities on page 141, asked whether it would be possible to devote a chapter in future reports to the work and progress of municipalities and other local bodies; it seemed to him that the information on municipalities and other local areas was not consistent throughout the report. Different terms were used to describe similar areas. He would be glad of information in the next report as to the composition and powers of lower councils. He would be particularly glad to know whether these councils were helpful in promoting a better understanding between different sections of the white population, as perhaps their being engaged on technical activities ensured greater collaboration.

Mr. TE WATER took note of this request.

#### MAP OF THE TERRITORY : FORM OF ANNUAL REPORT.

M. SAKENOBE thanked the mandatory Power for attaching a map to the annual report for 1937.

M. GIRAUD endorsed M. Sakenobe's appreciation of the map, for which he himself had asked at the thirty-first session of the Commission.<sup>1</sup>

He suggested that, when references were given in the report, they should be as precise as possible, to facilitate the study of particular subjects.

#### COMPENDIUM OF NATIVE LAWS.

M. VAN ASBECK asked whether there was any Compendium of Native Laws for the use of administrative officers. If so, could the Commission be furnished with a copy?

Mr. TE WATER knew of no such Compendium, but said he would make enquiries.

#### PUBLIC FINANCE : ADMINISTRATION OF NATIVE TRUST FUNDS.

M. RAPPARD noted that the financial situation was at last becoming more satisfactory. Revenue under nearly all heads except land revenue and rent of Government property had risen (page 13 of the report).

It was stated in paragraph 170, page 31 of the report, that the unabsorbed working costs of the Consolidated Diamond Mines had been reduced. He was not clear as to the position. The mines had been in a very difficult financial position, and matters had improved owing to a rise in prices and an expansion in the market. But what was the meaning of the passage to the effect that, if there had been no deductions for unabsorbed working costs, the Administration would receive profits tax in addition to export tax?

Mr. ANDREWS said the question of unabsorbed working costs was regulated by the Diamonds Tax Proclamation, No. 29, of 1931, which provided first for a diamonds export duty of 10% on diamonds produced, and secondly for a diamonds profits tax assessed on the basis of 60% of the proceeds from the diamonds less 70% of the working costs. Section 8 (1) of the Proclamation provided that, if 70% of the working costs exceeded 60% of the proceeds of the Diamonds a proportion of the unabsorbed working costs defined in the Section should be carried forward to the next year. During the period of depression the unabsorbed working costs had accumulated, but were now being liquidated.

M. RAPPARD asked who was the creditor.

Mr. ANDREWS said the matter was under the control of a Diamonds Board which consisted of representatives of the Administration and the producers.

M. RAPPARD gathered that it was a question of technical arrangements having no direct bearing on the public finances of the territory.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 145.

Mr. ANDREWS added that the refund of Diamond Tax, (paragraph 62 of the report) referred to by M. Rappard, arose out of adjustments of tax assessment, which was regulated by Section 18 of the Diamond Tax Proclamation.

M. RAPPARD noted that, though revenue was in excess of expenditure, the Territory was obliged to borrow; and the service of the debt, interest and sinking fund was added to the expenditure—which accounted for the excess expenditure.

In the interests of the Territory an operation of that kind should not involve a burden due to an excess of the rate of interest charged on the debt over that gained on savings. That depended on the rates of interest paid by the Territory to the Union. He was unable to ascertain what those rates were. At the beginning of the year the amount due by the Administration to the Union Government was £2,606,390, the net decrease for the year being £36,124, leaving the public debt as at March 31st, 1937, at £2,570,266. The amount paid as interest was £152,066, which included interest at various rates. The average worked out at about 6%; but the Union could hardly, he presumed, be charging the Territory 6%.

Mr. TE WATER said the rates of interest were the same as those paid by the Union Government. The rates of interest on loan expenditure and on the deficit in the Revenue fund were set out at page 7 of the report of the Auditor-General. Fuller information would be given in the next report.

M. RAPPARD expressed the hope that the method of redemption of the debt, when redemption involved new borrowing, was not such as to increase the total debt.

He noted from paragraph 285, page 46 of the report, that "the accounts of the trust funds are kept in the head office at Windhoek". The present balances were shown in paragraphs 409 and 410, page 68 of the report, and he noted with satisfaction that they had increased. But there was no indication as to how, and for what purpose, the expenditure was effected. The report only said (paragraph 285, page 46 of the report) that "These funds are expended under the authority of the Chief Native Commissioner on works for the benefit of the residents of the reserve after consultation with the natives through the local Reserve Boards".

Could the accredited representative perhaps give further information regarding this expenditure?

Mr. TE WATER said, speaking from general knowledge, that it would be for boring, road-making, fencing and other services in the reserves.

M. RAPPARD found it difficult to understand the situation with regard to boring. Boring appeared to have taken place in native areas; but no expenditure was shown for the last five years in the table on page 20 of the report. At the same time, Table 2 (Loan, Capital or Extraordinary Expenditure), page 14, contained an item "Water-boring", showing expenditure of £3,132 in 1932/33, £307 in 1933/34, £30 in 1934/35, £12 in 1935/36 and nil in 1936/37.

Mr. TE WATER answered that expenditure out of trust funds would not be shown in this particular form.

M. RAPPARD thought it striking that expenditure on boring should be reduced at a time when the financial situation was satisfactory.

Mr. ANDREWS said the report showed that boring on European farms was now undertaken by the settlers themselves or by private contract.

Lord HAILEY noted that up to 1935 there were 1,457 boreholes in South West Africa, most of them on European farms. The authorities provided everything except labour. That applied only to European farms, however, and not to reserves.

M. RAPPARD congratulated the mandatory Power on the improved financial situation, and expressed the hope that it would not deteriorate, in spite of indications to the contrary in recent months.

M. SAKENOBE drew attention to the credit balances in the Native Reserves Administration Funds as compared with expenditure, mentioning in particular the Aminuis, Berseba and Waterberg Reserves (paragraph 408, page 67 of the report). The figures gave him the impression that, while the natives were able to earn money, they did not know how to spend it usefully.

Mr. TE WATER said the expenditure of trust moneys was within the discretion of the Reserve Boards. That point was brought out in paragraph 305 of the report. M. Sakenobe's suggestion that expenditure was over conservative would be brought to the notice of the Administration, who would no doubt throw some light on the matter in the next report.

M. VAN ASBECK asked what was meant by Native Reserve Fund Fees (paragraph 62 page 14 of the report), amounting in 1937 to £10,428.

Mr. TE WATER said this sum represented collections in native territories subsequently paid over by the Administration to the Reserve Funds.

M. VAN ASBECK pointed out that in that case these collections ought to appear as well under expenditure as under revenue, which was not the case. He therefore requested that fuller information might be given in the next report.

#### LABOUR.

Mr. WEAVER said that, although it was still necessary to look in various parts of the report for information on the native labour situation, he had noted with much appreciation that it contained a short separate chapter on "Native Labour" (page 86) which he hoped would be developed in future reports. He expressed thanks for the table on wage rates on page 136, for the return of the number of natives working on farms on page 138, and for the table relating to convictions under the Master and Servants Act on page 7.

The table on page 7 was perhaps not as clear as it might be. In particular, it was not evident why there should be 40 European accused persons under the heading "Desertion". There seemed to be some confusion. Could the table perhaps be made clearer in the next report?

It was stated in paragraphs 78 and 79 (pages 20 and 21 of the report) that some adjustment of the wages of both European and native workers might be necessary as a consequence of the rise in prices. He also noticed in a summary of a memorandum attributed to Mr. Courtney Clarke and published in the *Rhodesia Herald* of September 3rd, 1937, that Mr. Clarke was reported to have stated that the wages of native farm labourers in the Union of South Africa were considerably higher than in the mandated territory. Had the Administration taken any action to secure an increase in wages in agriculture or mining?

Mr. ANDREWS pointed out that rights and obligations under the Master and Servants Act were mutual as between master and servant. In all probability the figure 40 referred to infringements, other than desertion, on the part of the employers. The matter would be clarified in subsequent Reports.

With regard to the adjustment of wages, paragraph 270, page 44 of the report, revealed that there had been a general increase in wages, owing to the increased demand for labour. No administrative action was involved; the interplay of economic forces in relation to supply and demand had regulated the position. He called attention, as an example to the statement in paragraph 320, page 55 of the report, to the effect that the demand for labour was strong, and the rates of wages paid by farmers had improved in the Berseba Reserve since the recovery from the depression.

Mr. WEAVER asked if that referred to only one area.

Mr. ANDREWS replied in the affirmative, but said that in general there would appear to have been wage increases in the territory.

Mr. WEAVER said he would be glad of information in the next report as to the Government policy in this connection.

He noted the general account in paragraph 288, pages 46 and 47 of the report, of the measures taken to regulate the supply of native labour for employment on farms. In this connection, he drew attention to the two following paragraphs in the *Rhodesia Herald* of September 3rd, 1937, which purported to be a summary of Mr. Courtney Clarke's memorandum:

"Native affairs officers were posted to all the principal reserves, and it became their duty to see that there was no loafing in these reserves. If the residents who were not required for the work of looking after the stock did not go out to work, then they were to be employed on the building up and improvement of the reserves in the general interest of the local community.

“ Under the system of grazing-fees in operation in the reserves, which in actual fact involves the payment of much heavier sums than under the Union native taxation system, the natives are compelled to obtain cash to meet the fees either by sale of their stock or by working or sending members of their families out to work.”

From the second of these paragraphs, it seemed difficult to avoid the conclusion that definite compulsion by means of taxation was applied to natives in the reserves to induce them to go out to work. Were those statements correct, and, if so, had this policy also been found necessary because, as Mr. Courtney Clarke was reported to have stated in the same memorandum, “ farm labour is definitely unpopular, and it should be a matter of concern to the farming community to see that this is remedied ” ?

Mr. ANDREWS said that the terms employed in the article were certainly imprecise, and consequently liable to misinterpretation. But there was no question of grazing-fee taxation being utilised as a means of creating a forced labour supply. The system of grazing-fees aimed predominantly at raising funds for the development of the reserves, and, being a tax based on the number of cattle possessed by stock-owners, was a natural tax on wealth. It was not heavy in its incidence.

As to the “ posting ” of native officers to all the principal reserves, that, of course, related to normal appointments of Welfare Officers for ordinary purposes of administration.

Mr. WEAVER said the wording would be open to the interpretation that there was at least some degree of indirect compulsion. Had the accredited representative the same impression ?

Mr. ANDREWS agreed that misinterpretation was quite possible. He had, however, no official cognisance of the memorandum in question.

As to the statement regarding payment of “ much heavier sums ” in South West Africa than under the Union native taxation system, it was the case that in South West Africa grazing-fees were charged on the number of head of cattle owned by the native. Consequently, the more cattle he had, the higher the fees. That seemed more equitable than the Union system, which was based on a poll-tax irrespective of the number of cattle owned by individual natives. But in any case, the fees were not exorbitant.

Mr. WEAVER said the wording was open to another interpretation. However, as the memorandum was not official, he would make no further reference to it.

He noted from page 77 of the report that the death-rate at the Tsumeb mines was 44.81 per thousand, and that influenza and pneumonia were the principal causes of death. Were any further steps being taken to prevent the very heavy incidence of these diseases ?

Mr. ANDREWS said this question was dealt with in paragraph 438, page 72 of the report, which stated that during the early spring there had been “ an epidemic of influenza, mainly among the natives. The infection was of a fairly virulent character, and respiratory complications were common. Where hospital treatment was available, the death rate had not been high ; it was otherwise where there were no facilities for treatment, *e.g.*, on the smaller mines, where the death rate was unpleasantly high.”

The epidemic mainly affected new natives coming down from the north.

Mr. WEAVER asked whether any further consideration had been given to the need for preventive measures in connection with new recruits. The Tsumeb mines were not among the smaller mines.

Mr. ANDREWS said that apart from mines there had been a similar epidemic and many deaths in Ovamboland. Further information would be given in the next report.

Mr. WEAVER said the figures of natives in employment (paragraph 557, page 86 of the report) showed a considerable increase over 1936 (30,931 in 1936 as compared with an estimate of 43,509 for 1937). In this connection, he desired to refer again to the position in some of the reserves about which he had asked questions at the thirty-first session.<sup>1</sup> It was the declared policy of the Administration to develop the native reserves so that they might absorb natives

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 139.

who had completed contracts of service or who had been unemployed in periods of depression (paragraph 288, page 47 of the report). Yet the number of natives who were away from the reserves seemed to have been considerable. According to the summary of Mr. Courtney Clarke's memorandum, "at the end of last year, of 40,500 adult native males in the Police Zone, only 6,000 were in reserves, of which a great number are either too old or otherwise unable to work, and the able-bodied natives are either taking a well-earned rest or are required for running the reserves". How was it possible to reconcile these two policies? On the one hand, natives were to be sent back to the reserves, which were to be developed in order to absorb them in time of depression. On the other hand, when there was a considerable demand for native labour, the reserves were almost depleted of their adult male able-bodied natives.

Mr. ANDREWS said the exodus of natives was a reflection of the prosperity of the territory. They were naturally willing to sell their labour in good times with a view to accumulating cash reserves. There was no conflict in that with the policy of the Administration of improving the reserves and making them more habitable for the future. Any additional resources accumulated by the natives as a result of their labour in the mines and elsewhere would be a contribution to that policy.

Mr. WEAVER found it difficult to understand how the reserves could be developed when such large numbers of natives were absent.

Mr. ANDREWS said it would be a policy of compulsion to attempt to keep them inside the reserves when there was a great demand for labour. There was, in consequence a dearth of man-power in the reserves at the moment, but the monetary resources accruing to them from labour outside would be available for raising the standard of living and for development ultimately within the reserves.

#### ECONOMIC SITUATION : IMPORTS AND EXPORTS : AGRICULTURE : CATTLE : MINES : RAILWAYS.

M. GIRAUD noted that the economic situation had again improved in 1937. Public finance showed a definite improvement in the financial year 1936/37. This was due to an increase of over 20 % in ordinary receipts on account of Customs duty, mining royalties, and licences. Conditions in agriculture and cattle-rearing had been favourable. The number of big cattle had increased by 120,000, and that of small stock by nearly 800,000, including 430,000 karakul sheep. Exports of karakul pelts had increased in quantity by 46 %. The quality of the butter produced had improved. The mines had been fairly active, and diamond and vanadium production showed an upward trend. The Tsumeb mine had resumed operations. The figures for gold showed a slight setback; but gold was only a minor product of the South West Africa mining industry.

In foreign trade, exports had increased by 19 % and imports by 23 % (page 119 of the report). Traffic in the ports had increased by 50 % and railway traffic had made even greater progress, the tonnage handled having increased by over 80 %. All branches of the postal and telegraph service had been more active. Savings bank deposits had increased by nearly 20 %. There was no unemployment: on the contrary, the heavy demand for agricultural labour on the farms had been met by the employment of natives from outside the Police Zone. These various indices, taken as a whole, undoubtedly made a satisfactory impression as to the year 1937; but it should be added that in 1938 economic activity was expected to slow down.

M. Giraud pointed out that, in 1937, imports from the Union amounted to £935,000 and exports to £604,607 (page 124 of the report). This was worthy of attention since, if trade between the Territory and the Union for the past five years (1932 to 1936) were balanced, it would be found that imports from the Union to the Territory amounted to £2,750,000 in all, while exports from the Territory to the Union amounted to £2,813,000. On the whole, therefore, the balance was in favour of the Territory. The situation had completely changed in 1937. Was there not some danger that that would make it more difficult for the Territory to repay its debt to the Union?

Mr. TE WATER said that if the ability to repay its debt to the Union rested solely on the considerations mentioned by M. Giraud, the answer to the question would be in the affirmative; but that, of course, was not the position.

He presumed that M. Giraud had noticed the actual total trade balance, as shown in paragraph 761, page 119 of the report, which was very much in favour of the Territory. It was the general trade balance and, finally, the position of its balance of payments which would affect a country's debt position.

M. GIRAUD drew attention to the measures taken by the Union Meat Control Board to introduce a strict quota for the import of sheep and goats from South West Africa for slaughter. It had been pointed out on a previous occasion that these measures were prejudicial to the farmers in the south of the Territory who had specialised in rearing sheep for slaughter and

found an important market closed to them. It was said on page 26 of the report, paragraph 112, that the quota had been reduced in 1937, but the figures on page 25, paragraph 111, nevertheless showed that exports to the Union were higher than in 1936. What was the explanation ?

Mr. TE WATER was unable to explain this contradiction, which he had noted himself.

M. GIRAUD asked whether there was also a quota for large stock. The number of cattle exported to the Union had actually fallen from 95,700 in 1936 to 48,257 in 1937 (paragraph 86, page 21 of the report).

Mr. TE WATER was not aware of any quota. He would ask for a clearer exposition of the position with regard to cattle exports in the next report.

M. GIRAUD noted that exports of mining products in 1937 amounted to £1,421,784, only £123,257.13s. 8d being paid to the Administration in the form of taxes (paragraph 168, page 30 of the report). Most of the profit from this industry went to the Union and overseas countries. It was difficult, perhaps, to say what share of this profit remained in the Territory in the form of wages, etc. ; but he gathered it was mainly the Union which profited from both the trade balance and the mining industry of the Territory. He merely drew attention to the fact, which was no doubt likely to have some influence on the economic structure and finances of the Territory in the future.

M. GIRAUD added that there was some discrepancy in the figures for mining exports, which were given as £1,640,885 in all paragraph in 169, page 31 of the report, and £1,421,784 in paragraph 773, page 122 of the report. Perhaps the explanation was that the former figure included sales as well as exports.

Mr. TE WATER thought that most of the capital employed in mineral production in South West Africa was held by overseas, rather than Union, holders. He did not know whether the Administration would be able to obtain the information, the details of which were known only to the companies.

There might be something in the suggestion that there was a difference between sales and exports, but he suggested that the real difference between the figures in paragraphs 169 and 773 was that the former were estimates.

M. GIRAUD presumed in that case that the actual figures were those given paragraph 773 of the report.

Turning to railway traffic, he pointed out that in 1937<sup>1</sup> the accredited representative, while not anticipating that revenue and expenditure would balance in the near future, had expressed the hope that, with the re-opening of the Tsumeb mines, the deficit would be appreciably reduced. He now noted that, as foreseen, the deficit, which amounted to £181,659 in the financial year 1935/36, had fallen to £144,215 in 1936/37 (page 116 of the report). Was this improvement expected to continue, and was it anticipated that the activities of the Tsumeb mine would be maintained or even expanded ? Was not railway traffic adversely affected by the restrictions on cattle imports into the Union ?

Mr. TE WATER said there could be no doubt that these restrictions did affect the railways adversely.

It was impossible to say how long the price of copper would remain profitable and, therefore, how long the mines would be able to continue working. In his budget speech, the Administrator, when issuing a warning against undue optimism, pointed out that the price of copper had suffered a serious reduction since the Tsumeb mine had decided to re-open. The mines were probably working at a loss at the present moment ; but, according to the Administrator, they did not intend to close for the time being.

M. GIRAUD seemed to remember that the agreement between the mining company and the Railway Administration for reduced railway rates was based on an annual production of 70,000 tons. That was far above the present rate of production (see report for 1936, page 29, paragraph 149).

Mr. TE WATER had no information on this subject, and could only draw attention to the following passage on page 133 of the Minutes of the thirty-first session of the Commission :

“ Recent negotiations, under which the mine had obtained great reductions from the railways, amounting to about £22,000 per annum, together with the increased price of copper, had enabled it to re-open.”

He was not aware of any reference to a minimum tonnage, but that would seem a normal stipulation.

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 133.

TENTH MEETING.

*Held on Tuesday, June 14th, 1938, at 10 a.m.*

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**South West Africa : Examination of the Annual Report for 1937** (continuation).

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

JUDICIAL ORGANISATION.

M. VAN ASBECK, referring to paragraph 29 of the report (page 6), noted the increase in convictions during 1937, and asked whether the accredited representative had any comment to make on that increase.

Mr. TE WATER said that the reply given last year still applied.<sup>1</sup> He thought the increase in convictions was due to the increased prosperity of the territory. He hoped that the incidence of crime would gradually diminish, though not as a result of a decreasing prosperity.

M. VAN ASBECK noted that the report contained no information on the work of the native courts and hoped such information would be given in the next report. He asked what law was applicable in the reserves.

Mr. TE WATER said that the law applied was native customary law, so long, of course, as it was not *contra bonos mores* ; explanations had been given in a previous report.

M. VAN ASBECK was glad to note the statement in paragraph 279, page 45, of the report, that under native custom many crimes were regarded as torts rather than crimes and were settled by payment of damages in the form of money or stock. This helped to keep offenders out of prison. He presumed that the paragraph in question referred only to Ovamboland. Could the same be said of all the reserves ?

Mr. TE WATER replied in the affirmative.

POLICE.

M. SAKENOBE observed from paragraph 58, page 13 of the report, that great difficulty was experienced in keeping the police-force at its normal strength, as large numbers of resignations had taken place through members of the police-force being attracted to other walks of life. He asked what was the level of salaries paid to members of the police-force in comparison with the general level of salaries in the territory.

Mr. TE WATER said the scale was the same as in the Union, with certain additional territorial allowances. From that point of view, the police-force was as attractive as that in the Union, but the conditions of service were more severe.

M. SAKENOBE asked whether the Administration had considered the possibility of attracting more capable men by improving the terms of service in respect of pensions, etc.

Mr. TE WATER said that suggestion would be considered. He pointed out that the estimates for 1938/39 provided for eight additional non-commissioned officers and six native guards.

M. SAKENOBE was glad to hear that. He noted that there had only been eight recruits in the previous year, while in the year under review there were twenty-one.

Mr. TE WATER said difficulties were being experienced ; but the force was being kept up to strength.

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 134.

ARMS AND AMMUNITION.

M. SAKENOBE noted the statement in paragraph 55, page 12, of the report, that the Administration was considering the question of taking a census of the arms. The possession of arms was controlled by permit and registered. He therefore presumed that the census merely consisted in looking up the register.

Mr. TE WATER replied that, as stated in paragraph 54 of the report (page 12), the number of arms had been over-estimated. The census would show whether the register was correctly kept and whether there was any illegal possession of arms.

EDUCATION.

Mlle. DANNEVIG noted that the expenditure on coloured and native scholars decreased from £16,950 in 1935/36 to £15,075 in 1936/37, and that the number of coloured scholars decreased from 1,138 to 801 (page 39 of the report). What was the reason for the decrease ?

Mr. TE WATER said this might have been due to the considerable exodus of natives to work in another part of the territory.

Mlle. DANNEVIG noted from paragraph 259, page 43, of the report, that there was still a dearth of properly trained and qualified teachers who were conversant with the various native languages. It was stated in paragraph 261, on the same page, that the apparent failure of the Department to find young student teachers was mainly due to the attitude of the parents, who maintained that their sons had reached an age when they should be contributing towards the support of the family.

Would it not be possible to enhance the interest of the parents in training their children to be teachers ? Perhaps this could be done by paying higher grants to the native teachers, so that they could help their parents. Did not the fact that a teacher was in a better situation than an agricultural worker influence the minds of the natives ?

Mr. TE WATER referred to paragraphs 263 to 266, page 43, of the report, which showed that inducements in the form of financial grants were being held out to make the teaching profession more interesting to the natives.

Mlle. DANNEVIG thought this could be done in other parts of the territory than Ovamboland.

Mr. TE WATER hoped the system of grants would achieve the desired results.

Mlle. DANNEVIG said that she had asked a question in the previous year<sup>1</sup> as to how the money set aside for education was spent and how it was divided between the Government and mission schools. She noticed that the expenditure was again given in a lump sum also in the report (page 42) under review.

She asked for an explanation of the expression "total revenue from education" in paragraph 241, page 39 of the report.

Mr. TE WATER said this revenue was derived from Government hostels—that was to say, entirely from Europeans.

Mlle. DANNEVIG asked why the Government Industrial School at Rehoboth had to be closed at the beginning of 1937 (paragraph 253, page 42, of the report).

Mr. TE WATER said it was due to lack of support on the part of parents in not sending their children to the school.

Mlle. DANNEVIG would like to know the reason for this unwillingness to send the children to school.

She noted that a coloured school at Luderitz had to be classified as a native school (paragraph 254, page 42, of the report). Did that imply that the school would be less efficient ?

Mr. TE WATER said it did not. The reason for reclassification was given in paragraph 254 of the report.

At the previous session,<sup>2</sup> M. van Asbeck had asked for a report on the Inter-Departmental Commission of Native Education. In 1936, the Union Native Affairs Commission had issued

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 128.

<sup>2</sup> *Ibid.*, page 129.



its annual report and made comments on it. The comments were of interest, as the Native Affairs Commission as a body advised Government on its policy regarding native education. He undertook to supply copies of these official documents.

Mlle. DANNEVIG noted a reference to native female nurses in the territory (page 49, paragraph 296). She supposed such nurses had first to receive a general education.

M. VAN ASBECK noted from paragraph 313, page 54, of the report, that there was only one Government school in the reserves. He asked how this experiment was working and whether the Government proposed to extend the system of Government schools.

Mr. TE WATER said there was only one Government school, in the nature of an experiment which was being closely observed, but there were many mission schools which were very active inside the police zone. Statistics in regard to these schools were shown in paragraph 811 of the report (page 137). The Government took a keen interest in the mission schools, as would be seen by the report of the Rhenish mission in paragraph 413 (page 68 of the report), where it was said that the mission schools might more appropriately be called Government schools.

Mlle. DANNEVIG thought that the Government schools perhaps gave too literary an education. They were very expensive and had not developed a practical side, so far as she could see.

Mr. TE WATER agreed that the education in both the Government and mission schools was much too clerical, and they had been, in his opinion, validly criticised on that account.

M. VAN ASBECK referred to the previous year's report and asked whether any effect had been given to the suggestion that the Administration should take over the training of native teachers.<sup>1</sup>

Mr. TE WATER said the answer last year had been that the Government could not do so. There was no change in that respect.

M. VAN ASBECK thought the present system represented a vicious circle in which there was no primary education because there were no teachers and no teachers because there was no primary education.

Paragraph 262 of the report (page 43) stated that additional teachers would become available during the year. What year was referred to ?

Mr. TE WATER assumed that the passage in question referred to the year under review—namely, 1937.

M. VAN ASBECK noted the reference in paragraph 259, page 43, of the report, to the dearth of properly trained and qualified teachers who were conversant with the various native languages. On the other hand, the Rhenish mission's report referred to the provision of literature in the three most important native languages (page 69 of the annual report). If the missionaries could provide literature in the native languages, why should it be difficult to obtain teachers who were conversant with the languages ?

Mr. TE WATER replied that there was an obvious difference between a trained teacher who was conversant with native languages and persons who knew native languages but were not trained teachers. Moreover, the Rhenish mission's report stated that the creation of a literature in the native languages was considerably hindered by the fact that there were so many different languages, and that no single language was spoken by more than 30,000 natives.

M. VAN ASBECK observed that, in the previous report (page 35, paragraphs 192 to 194), there had been a statement regarding the effect of compulsory education. The present report contained no information on the subject, and he hoped that such information would be given regularly.

Mr. TE WATER agreed to see that this was done.

M. VAN ASBECK had learned from the Press that subsidies had been withdrawn from German schools. This question was not mentioned in the report, and he asked whether it had been settled.

Mr. ANDREWS thought the position was the same as in the previous year, when Mr. Courtney Clarke had given an account of the true facts of the case.<sup>2</sup>

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 193.

<sup>2</sup> *Ibid*, page 114.

MISSIONS : MEANS OF ENSURING CLOSER CO-OPERATION BETWEEN THE MISSIONS AND THE ADMINISTRATION : PRESERVATION OF TRIBAL CHARACTERISTICS AND OF THE TRIBAL SYSTEM : QUESTION OF THE SUPERVISION OF THE NATIVES OUTSIDE THE RESERVES : POLYGAMY.

M. PALACIOS observed that the report gave a good deal of information regarding missionary activities and also as regards the policy relating thereto. He noted on page 52, paragraph 308, of the report that missionary activity might create difficulties for the Administration by breaking down the tribal organisation. In other paragraphs, an account was given of these missionary activities and reference was made to the rivalries between the various denominations, which were doubtless due to the fact that they were over-zealous. He recalled that those questions had already been discussed last year.<sup>1</sup> In paragraph 309, page 52, of the report, it was stated, however, that, as a result of a conference held at Windhoek with representatives of the missions working in Ovamboland, it was hoped there would be closer co-operation in future between the officials of the Administration and the missionaries, etc.

Was the conference held at Windhoek the same as that referred to last year? Had that close co-operation shown any results?

Mr. TE WATER said the Conference was the same as that referred to in the previous year. As regards the result, paragraph 390 of the report (page 63) showed that an all-round improvement was already noticeable following upon the Conference.

M. PALACIOS noted (page 69, paragraph 413, of the report) that the Rhenish mission referred to the difficulties it had encountered in its work.

In sub-paragraph (a), it was stated that Moscow propaganda via America and Johannesburg in the form of inculcation of Bolshevist ideas, particularly in the towns, was encouraging the natives to give up Christian practices and culture, while in sub-paragraph (c) it was observed that the awakened national feeling in the Hereros had inspired them with the belief that they must return to the ideas, beliefs and customs of their forefathers in order to be real Herero. Even in those remote parts of Africa therefore, Bolshevism and nationalism appeared to be opposed to each other. Sub-paragraph (c) raised a delicate question. If as had previously been asserted, the Hereros felt more at home and behaved better under their old traditions, should not the situation be handled with the greatest tact and no attempt be made to destroy, through religious zeal, what the missions could obtain by other (humanitarian, etc.) means. So long as native religion did not constitute a social danger but was actually beneficial from a social standpoint, it might perhaps be better to leave it alone or, at any rate, to go slowly in making any changes.

Sub-paragraph (d) of the same paragraph mentioned the fall in the marriage rate, which was doubtless connected with the ancestral custom. Polygamy was possibly a highly important social factor for the Hereros, and M. Palacios suggested that monogamy should be introduced gradually as progress was made in social and economic questions in general. Naturally, he did not wish that the beneficial aspects of missionary activity—and they were many—should disappear.

Mr. TE WATER said that, as far as he knew, the mandatory Power was merely holding a watching brief and taking no active measures.

As regards Moscow propaganda, it would be observed that the Rhenish mission was the only one to draw attention to that subject, perhaps because it was a subject which interested them more than it interested the other missions. Whether the deteriorating influence was the effect of large towns on the raw native or political influences of the kind mentioned, the problem of native contacts with civilisation was the same. He had yet to learn that the Administration was alarmed about Moscow propaganda.

As regards the awakened national feeling of the Hereros, this was an extremely interesting trend and one which left room for a difference of opinion. Speaking personally, Mr. te Water did not agree with the missionaries' views. He thought there was nothing healthier or more hopeful than the return of the Bantu peoples to their original tribal lives, subject, of course, to proper and sympathetic control. The policy of the Administration was to encourage the natives to live in their reserves, to restore and repair their tribal system and to maintain their customs, so long as these did not conflict with the recognised morals of modern civilisation.

In this connection, he drew attention to the remarks of Mr. Hahn on the Epata system, described in paragraph 308, page 52, of the report, which was opposed by the missionaries.

M. PALACIOS was sure that the Administration was handling the situation with great tact. He personally agreed with the accredited representative regarding the desirability of a return by the Hereros to their old national feelings. But all these questions connected with native life were very complicated, and before any decision could be taken the situation must be carefully examined.

In paragraph 308, page 52, of the report, the Native Commissioner of Ovamboland stated that: "The Epata consists of the descendants of a woman who existed in the dim mists of

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 141.

the past. In Ovamboland, blood relationship springs from the woman. A man is not a blood relation of his children . . .". One had only to consider the complex consequences arising from this principle to perceive the difficulty of making any reform, and the likelihood of disturbances following on any superficial or precipitate action.

Mr. TE WATER said this was one of the questions discussed at the Conference between the missionaries and the Administration, and the discussion had led to good results.

Mlle. DANNEVIG presumed that, as the areas in question were closed to foreigners, the propaganda could only reach them through natives leaving the area to work elsewhere and subsequently returning. It would be a pity if the missionaries and the Administration were on two different sides on such questions as those referred to in the report.

Mr. TE WATER said they were not on different sides, but there were undoubtedly differences of opinion between the missions and the Administration. These differences were, however, he thought, not so serious that they could not be overcome.

He agreed with Mlle. Dannevig regarding the danger to natives who left the territory to work elsewhere being affected by their new environment. The proper solution was a careful selection of the men in charge of native affairs, whose influence for good on the native in his reserves was vital to their well-being.

M. VAN ASBECK agreed with the accredited representative regarding the desirability of restoring the Hereros to their old national customs, provided such restoration was limited, as Mr. te Water had said, by the recognised morals of modern civilisation. It would seem to M. van Asbeck that on those morals the missions had their word to say, and indeed a very important one, because those morals were based on respect for the human value of our fellow-men. From that point, the Administration and the missions had to follow a common path, where all that was valuable in native customs might be sublimated into ethical values. He therefore wondered whether it would not be to the advantage of the missions and the Administration to hold regular conferences to discuss this common problem.

Mr. TE WATER thought this was a valuable suggestion. It would be noted by the Administration. He pointed out that the practice of the missions varied, in some cases approaching closely to the policy of the Government and in other cases being more remote from it. Those differences could no doubt be solved at such conferences.

#### ALCOHOL AND SPIRITS.

M. SAKENOBE noted that the imports and production of various kinds of liquor had increased considerably (paragraphs 45 to 50, pages 10 to 12 of the report), but the number of convictions for contraventions of the Liquor Law showed a slight decrease. That decrease was unfortunately only due to the fact that fewer offences had been committed by coloured people, while offences by natives had, on the contrary, been more frequent (paragraph 34, page 8 of the report).

Was this due to increased vigilance on the part of the authorities or to the increased consumption of alcohol ?

Mr. TE WATER thought the increase in the number of offences would be due to both causes. He had, however, observed that increased vigilance frequently led to a great change in the figures of crime.

M. SAKENOBE observed (paragraph 36, page 8, of the report) that the decrease in the number of coloured persons convicted for being in possession of Kaffir beer was attributed to the fact that they were now able to obtain a full or partial exemption from the magistrate. What was the reason for that exemption ?

Mr. TE WATER said that natives were given exemptions in certain municipal areas, and he imagined it had been thought desirable to give coloured people the same privileges as natives in regard to the consumption of beer.

M. SAKENOBE did not understand the expression "full or partial exemption". He would welcome details of the new system in the next report.

He read an extract from the *Windhoek Advertiser*, of April 2nd, 1938, on a debate in the House of Assembly, which disclosed some surprising facts in regard to the sale of beer to natives by the municipal authorities of Windhoek. It was stated, for instance, that the natives in the Windhoek Location were consuming beer supplied to them by the municipal authorities at the rate of 350,000 litres per annum. That had not resulted in any marked diminution of the quantity of beer brewed by the natives themselves.

Mr. TE WATER had not seen the statement in question; but he agreed to ask the Administration to report on it.

In reply to a further question, he said the alcoholic strength of the beer was 4%.

#### DRUGS.

M. SAKENOBE asked for an explanation of the increase from six to twenty-one in the number of convictions under the provisions of the Medical, Dental and Pharmacy Act (paragraph 38, page 8 of the report). Was that also due to increased vigilance?

Mr. TE WATER thought this might be connected with the growing of "dagga" (see paragraph 40), but had no detailed information on the subject. Prosecutions would be brought under that Act.

In reply to a further question, he said the quantities of drugs seized were reported to the League, but the information could in future also be included in the annual report.

#### PUBLIC HEALTH.

Count DE PENHA GARCIA was glad to see that, according to the report, health conditions were fairly good (paragraph 431, page 72 of the report).

He had seen an article in the *Manchester Guardian*, of February 21st, 1938, which reproduced extracts from a report by Dr. E. H. Cluver, Deputy Chief Health Officer of the Union, on the under-nourishment of the natives. Did that refer only to the native population of the Union or also to South West Africa?

Mr. TE WATER said Dr. Cluver was only concerned with the health of the Union.

Count DE PENHA GARCIA thought it would be valuable to instigate a similar enquiry into the nutrition of the native population in the mandated territory.

Mr. TE WATER agreed. In his opinion, nutrition was more important than education. The entire question was being actively studied in the Union; and those studies would no doubt have repercussions on the mandated territory.

Count DE PENHA GARCIA referred to the account of venereal disease given in paragraph 296 (page 49 of the report), and noted that the Administration was almost powerless to cope with that disease.

According to the *Windhoek Advertiser*, of April 2nd, 1938, there had been a debate in the Legislative Assembly, in which attention was drawn to the serious nature of the disease. Could further information on this discussion be given in the next report?

Mr. TE WATER agreed.

Count DE PENHA GARCIA noted (paragraph 429, page 72, of the report) that a number of districts in Windhoek had a tendency towards becoming slum areas. What was the reason?

Mr. TE WATER said it was due to over-crowding by itinerant natives who had no means of support.

Count DE PENHA GARCIA noted that the incidence of disease among natives employed in mines was higher than in previous years (paragraph 465, page 75, of the report). This was attributed to new arrivals; but, as the figures were given in percentages, they would still be relative. Was the increased incidence due to epidemics or to more general causes?

Mr. TE WATER thought influenza had had a wider range during the year. The opinion of the Administration was that the increase was due to new arrivals at the mines, as well as to the epidemic.

M. SAKENOBE thought there might have been some slackening in the medical examinations, since he noted (paragraph 463, page 75, of the report) that in the Okavango region the doctor was found to be unqualified.

Mr. ANDREWS explained that, as the doctor was not registerable under the Medical, Dental and Pharmacy Act, it was not possible for him to continue in practice. The qualifications necessary for registration were stipulated in the Act, which, apart from specifying what sort of medical training was necessary, also required reciprocity of recognition of South African medical diplomas by foreign countries.

Count DE PENHA GARCIA asked what would be the medical diploma held by a lady missionary referred to in paragraph 436, page 72, of the report ?

Mr. ANDREWS said it would depend upon where she had undergone her training. The report revealed no information on that point.

Count DE PENHA GARCIA observed (paragraphs 534 and 535, page 84, of the report) that there had been a considerable increase in cases of malaria as compared with the previous year. Had any progress been made in measures for combating that disease ?

Mr. TE WATER said the incidence of malaria depended on the season. In a rainy season, the incidence increased, and more active measures had to be taken. The character of the country made it extremely difficult to take effective measures.

#### LAND TENURE.

M. VAN ASBECK was grateful for the insertion of a chapter on land tenure (page 86 *et seq.* of the report).

He wished to ask certain questions to which replies might be given in next year's report.

The account on page 93 *et seq.* did not refer to respect for native rights of possession in the transfer of land, and he would like information on that point.

He would also like to know what land was included in the category of Government land referred to in paragraph 617, page 96, of the report. How did this differ from the land for settlement mentioned in paragraph 594, page 93, of the report ?

Mr. ANDREWS said Government land was identical with Crown land ; the land mentioned in paragraph 617 was mostly non-agricultural of the nature of township properties, whilst land indicated in paragraph 594 was for agricultural settlement.

M. VAN ASBECK would also like to have some information in the next report regarding native rights to land in reserves. Did they own the land, or had they only the right to use it ?

He observed (paragraph 162, page 29, of the report) that most of the land suitable for settlement had been disposed of. Did this mean that there was any danger of invading the native reserves ?

Mr. ANDREWS referred to the figures in paragraph 625 (6) (page 98 of the report), which showed that there were still 21,100,000 hectares of unalienated Crown lands. Whilst that area was not considerable compared with the enormous size of the territory, yet it was a sufficient balance to remove any danger of the native reserves' being invaded.

Count DE PENHA GARCIA asked whether there was any forest reserve in the territory.

Mr. ANDREWS replied in the negative.

Count DE PENHA GARCIA referred to paragraph 208 of the report, page 35, and asked that the next report might contain information on the results obtained from drilling.

Mr. TE WATER took note of the request.

Count DE PENHA GARCIA asked if the second memoir referred to in paragraph 238 of the report (page 38) regarding a geological survey had been published.

Mr. TE WATER did not know, but promised to supply copies of the memoir as soon as it appeared.

#### DEMOGRAPHIC STATISTICS.

M. RAPPARD had noted that the immigration of persons for permanent residence was not very considerable. There had been 127 persons entering the territory by sea for this purpose, and of those 119 were Germans (page 126 of the report).

He drew attention to an error in the tables on page 128, which should refer to persons leaving (and not entering) the territory.

Mlle. DANNEVIG referred to the table on page 131 showing the number of men, women and children, and observed that the number of children was smaller than that of the women, except in the case of the Hottentots. The table on page 61, however, showed that there were twice as many children as women.

Mr. ANDREWS said the figures on page 61 referred to the population outside the police zone, and those on page 131 to the population in urban areas, in reserves and in rural areas.

Mlle. DANNEVIG asked if the explanation was that the proportion in the reserves was normal, and that there were few children outside the reserves.

She noted from the table on page 61 of the report that there were certainly a larger number of men than women in the reserves. It was, however, stated on page 65 that the ratio of women to men was at least two to one.

Mr. ANDREWS explained that this ratio was based upon the assumptions and deductions mentioned in the preceding paragraphs on page 61, as, for example, the fact that men marry much later in life than do the womenfolk.

#### CLOSE OF THE HEARING.

The CHAIRMAN thanked Mr. de Water and Mr. Andrews for their co-operation with the Commission. He was particularly grateful to Mr. de Water for having met the Commission's wish by prolonging his stay at Geneva.

Mr. TE WATER said he wished again to emphasise how much his Government and the Administration valued the advice and assistance of the Mandates Commission.

He and his colleague, Mr. Andrews, were most appreciative of the patience and courtesy which the members of the Commission had once again extended to them.

Mr. de Water and Mr. Andrews withdrew.

#### **Memorandum by Mlle. Dannevig on Native Education and the Social Services in African and South Seas Mandated Territories : (document C.P.M.2073).**

The CHAIRMAN had received from Mlle. Dannevig a memorandum in which she summarised her observations on the organisation of education in the territories under mandate and her conclusions drawn from those observations. Mlle. Dannevig's document would be distributed to the members of the Commission and examined by the latter on a later occasion.

#### **Syria and Lebanon : Adjournment to the Autumn Session of the Examination of the Annual Report for 1937 (continuation) : Question of Petitions.**

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

The CHAIRMAN thanked M. de Caix for having been good enough to respond to the invitation to come to Geneva to give the Commission certain explanations.

He recalled, in the first place, that, on May 31st, 1938, the Minister for Foreign Affairs of the French Republic sent a letter to the Secretary-General, asking him to arrange for the adjournment till the autumn session of the examination by the Mandates Commission of the annual report on Syria and Lebanon.

The French Government had explained that it did not want to depart from the usual practice, by which the mandatory Power not only described the events of the year under review, but also gave a summary of the situation at the time of the examination and information as to how the situation would be developed. The French Government thought that, in view of the circumstances, this method would present certain disadvantages this year.

At the Commission's request, the Secretary-General replied to the French Government that the Commission did not insist on the examination of the report at the present session. He added that the Commission hoped, nevertheless, that an accredited representative of the French Government would make a statement with regard to the reasons which had led to the request for adjournment of the examination of the annual report for 1937. Lastly, the French Government was informed that the Commission intended to examine, with the assistance of the same representative, the petitions concerning Syria which were on its agenda.

The Chairman recalled that, in the meantime, the French Government had arranged for each member of the Commission to receive a proof of the annual report for 1937.

In those circumstances, the Commission would be glad if M. de Caix would be good enough to explain more fully the reasons for the French Government's request for an adjournment, and then give explanations on certain points raised in the petitions concerning Syria and Lebanon, which were particularly numerous that year.

M. DE CAIX made the following statement :

I am anxious that you should clearly understand in what spirit and circumstances the French Government formulated its request for an adjournment, about which the Commission desires explanations.

The mandatory Government had no idea, and had no reason to have any idea, of evading its duty to produce an annual report for submission to the League. At the same time it felt, in view of the current practice of the Commission and the accredited representative in the matter of discussion, that it would be preferable, in existing circumstances, to adjourn the examination of the annual report because of the difficulty of confining the discussion to past events as set forth in that report.

The report could have been submitted in proof in the form in which it is now before you—that is to say, with certain gaps. The reason for these gaps lies in the fact, that, since the beginning of 1937, the Syrian Government has been free—as part of the process of preparation for the full application of the treaty policy—to act in less close contact with the mandatory officials, who had therefore not been in a position to obtain with the same promptitude and directness as in previous years, the particulars required for the preparation of the report. When you were invited to adjourn the examination of the report, it seemed inadvisable to communicate the report until all the usual sections were complete. In other words, the delay in its completion was the effect, and not the cause, of the French Government's request.

That request, which it is difficult to discuss without giving freer rein to the speculations of a highly sensitive public opinion, does not imply that the policy which has been put before you on several occasions in recent years, and which led up to the conclusion of the treaties at the end of 1936, has been abandoned. But the treaty policy has been the subject of heated discussion in various circles. Delicate adjustments are necessary if it is to be carried through in the presence of criticisms to which it would be highly undesirable to add any fresh fuel. For that reason, it seemed better to ask the Commission this year to adjourn a form of examination which has come to be in the nature of a political review, not only of events during the period to be covered by the report, but also of more recent developments and even of the future.

That being so, the Commission, after years of contact with Syrian affairs, will readily understand the difficulties the French Government had in mind in putting forward its request.

I should make it clear, however, that the mandatory Power has by no means lost sight of its duty to lay an annual report before the League, and it is well aware that the adjournment could not go beyond the session of the Commission to be held in the autumn. It ventures to hope, however, that before then matters will have developed, and ideas will have been adjusted, in such a way as to enable the report to be examined, without inconvenience, as fully and freely as in past years—and that, with reference (as I said just now) not only to past policy, but also to the future development of the policy adopted in the mandated territories.

The CHAIRMAN said he had some difficulty in sharing M. de Caix's optimism and his hope that in four months time matters would have developed in such a way that less discretion need be exercised than at the present time. Four months seemed a short time in the evolution of a state of affairs that had already lasted for nearly two years—from the time when the Franco-Syrian and Franco-Lebanese Treaties had been initialled. The Chairman feared that, at the autumn session, the circumstances would be the same as at present. nevertheless, the examination of the annual report could not be adjourned a second time;

M. DE CAIX explained that, when he suggested that in four months time the position would be so much clearer that he would be able to speak more fully, he had no intention of avoiding any questions the Commission might desire to ask immediately. It would be easy for him to answer enquiries as to past events. As for development in progress, he fully expected that, by November, they would have reached a stage at which it would be possible to make the examination as free and extensive as in the past.

M. RAPPARD said that the arguments in favour of discretion, coming from such a man as M. de Caix, were certainly impressive. But to the members of the Mandates Commission, they could not be otherwise than embarrassing in the extreme. In the view of the Commission, the administration of Syria and Lebanon was passing through a critical period. A treaty had been concluded between the mandatory Power and the Syrian Government. At the time it was signed, the understanding was that it would come into force three years after ratification by the two parties. The Syrian Government had ratified it. France had not. At the same time, France had been applying it *de facto* for a year and a half, so that to all intents and purposes the three years were already running, and there was only a year and a half to go before the termination of the mandate. The problem with which he was faced was how to reconcile his anxiety to meet the wishes of M. de Caix and the mandatory Power, on the one hand, and his own sense of responsibility as a member of the Mandates Commission on the other.

M. Rappard's primary concern was for the future of the minorities. At the beginning of the mandatory Power's report, communicated in proof to the Commission, a distinction of a somewhat subtle character was drawn between the responsibilities of the mandatory Power and the prerogatives of the Syrian Government. Between the responsibilities of the one and the prerogatives of the other, there would not appear to be any very definite safeguards for the rights of the minorities. Was the protection of the minorities a responsibility of the mandatory Power or a prerogative of the Syrian Government?

M. DE CAIX replied that the French Government would retain some responsibility for minorities under the treaty regime ; otherwise several of the annexes to the treaty would be meaningless. But the provision and application of safeguards for the minorities would call for very careful handling, in view of the susceptibilities of the Syrian majority, which must be considered.

M. RAPPARD pointed out that, for the moment, the Syrian Government was not sovereign.

M. DE CAIX replied that, in his opinion, the question was mainly one for the future. The French Government was not abandoning any of its responsibility as mandatory Power, but was exercising it in a new setting—in accordance, namely, with the policy of giving effect to the treaty before it officially came into force. That policy, moreover, was readily comprehensible in view of the impossibility of an abrupt transition by Syria and Lebanon from the status of territories under mandate to the status of a country governing itself freely. An intermediate period of adaptation and probation was necessary. M. de Caix laid stress on the word "probation", since, at the end of the trial period of three years, the League of Nations was to be free to express its opinion on the termination of the mandate within the setting of the application of the Franco-Syrian Treaty. Moreover, it must not be overlooked that events calculated to disturb the order which the French Government and the Commission were concerned to maintain in Syria might occur—had indeed occurred—under the mandatory regime pure and simple as well as under the treaty regime.

M. PALACIOS had observed, during the Commission's discussion of the request for adjournment,<sup>1</sup> that he saw no objection to acceding, purely and simply, to the mandatory Power's request. Nevertheless, although he agreed with the Chairman and M. Rappard that four months would not make much difference, he thought it was better for the Commission to know what was happening in Syria than to waste time in discussions. Everyone was aware of the manifestations in favour of and against the ratification of the treaties. Some of them, of an academic nature, which had taken place in France had caused a great stir. M. de Caix himself had appeared to hint at a possible modification of the treaty. Was it a question of changes in the Treaty, or was it a question of adapting the forms of its application to meet the situation ?

M. DE CAIX answered that there was no question of changes in the treaty. But the treaty provided for certain annexes and exchanges of notes, which had still to be drafted in agreement with the Syrian Government ; and, after that, a whole series of arrangements would be required to give effect, with security, to those instruments. The policy followed over a number of years, which culminated in the decisions at the end of 1936, was not in process of change, but in process of application.

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#### ELEVENTH MEETING.

*Held on Tuesday, June 14th, 1938, at 4 p.m.*

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**Syria and Lebanon : Adjournment to the Autumn Session of the Examination of the Annual Report for 1937 (continuation) : Examination of Petitions (continuation).**

M. de Caix came to the table of the Commission.

The CHAIRMAN informed M. de Caix that the exchange of views begun that morning on the basis of his statement would not be continued for the moment, but would be resumed later. For the time being, he asked the accredited representative to hear the questions to be put by the Rapporteurs on petitions from Syria and Lebanon.

PETITION, DATED NOVEMBER 5TH, 1937, FROM M. ABDEL KADER AND M. FOUAD GHANDOUR, BEIRUT (*Rapporteur*: Count DE PENHA GARCIA).

Count DE PENHA GARCIA had the impression, from a study of the petitions under examination, that there was little change since the time when the views now held by the Government were held by the Opposition. The opponents had changed, but not the grounds of opposition !

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<sup>1</sup> See page 14.



The point at issue in this particular case was the construction of the Beirut aerodrome. The mandatory Power stated that the proceedings were taken under an Order of the High Commissioner. The position was unsatisfactory, seeing it was not till after a fairly large sum had been spent that the land originally chosen was found to be unsuitable, and expropriation became necessary. It was the expropriated parties, and M. Abdel Kader in particular, who had petitioned the mandatory Power. The latter's reply was to the effect that the proceedings were in order. The Court of Cassation had also non-suited the plaintiffs. It would appear from the documents that the main argument invoked by the principal plaintiff was very much weakened by the fact that, in order to evade taxation, he had registered his property in the Land Register at a very much lower value than that fixed by the experts; such behaviour on his part could in no circumstances be justified. Was the price of 10 francs per square metre fixed by the experts normal in view of the position of the land? The petitioner, he repeated, had no case at law. He claimed that his land was worth 240 francs per square metre. As far as the Order was concerned, the only question that arose was whether the work in question (though admittedly for military purposes) was to be regarded as a public enterprise, in view of the fact that the aerodrome was to be exploited by a private concessionary company. The land would appear to be near the Residency of the High Commissioner. What was to be said in regard to the difference between the sum claimed by the plaintiff and the price fixed by the experts?

M. DE CAIX replied that the land was not very near the Residency of the High Commissioner and was well outside the town. It consisted of sand-dunes with no vegetation; no road had been laid out, and the soil had had to be covered with asphalt, so that aircraft could land and take off. He was unable to say what the land was worth.

Count DE PENHA GARCIA noted that the procedure adopted was correct, except for some slight doubt as to the High Commissioner's Order. For the rest, the plaintiff had only himself to thank in view of his action in registering his land in the Land Register as worth 6 francs per square metre.

PETITION, DATED DECEMBER 27TH, 1937, FROM M. MICHEL SAYUR, ROME, AND OTHER HEIRS OF THE LATE ANTOUN YOUSSEF SAYUR, SUBMITTED TO THE PERMANENT MANDATES COMMISSION THROUGH THE INTERMEDIARY OF ME EMILE ZALZAL, ADVOCATE, BEIRUT  
(*Rapporteur*: Lord HAILEY).

Lord HAILEY asked whether there were legal obstacles to prevent the petitioners from appealing once again to a legal authority for an interpretation of a judgment dating from as far back as 1933. Had any limitations come into play?

M. DE CAIX replied that, as the covering letter explained, the time-limit for making an appeal would only begin to run from the date on which notice of the judgment was served—a step which the Sayur heirs had so far failed to take with the Druzes. They could very well institute appeal proceedings by endeavouring to obtain execution of the judgment, thus exhausting the rights of the other party. In fact, however, they did not seem very keen to have recourse to the law.

M. RAPPARD asked whether they sought a compromise.

M. DE CAIX answered that there was no evidence of any steps having been taken by the Sayur heirs in that sense. Conceivably, their action in petitioning the League was, however, designed to bring pressure to bear on the Administration to the same end.

Lord HAILEY observed that, in 1933, the heirs secured a judgment from the court, against which there was no appeal. There still remained, however, the fact that the land over which rights were given to them included the cemetery of the Druzes. The Druzes had turned for help to the Executive, which appeared to have replied that they need have no anxiety, since the judgment would in no circumstances and at no time be carried out. It was the view of the Executive that the judgment could not be applied without provoking serious trouble. One solution, of course, might be to expropriate the ground in question for reasons of public utility, of course paying full compensation, and subsequently to hand it over to the Community concerned. But all that the Mandates Commission could do was to make sure that the legal channel was still open. Could the Commission conclude that all possibility of appeal had not been exhausted?

M. DE CAIX replied that that was the position, as the covering letter showed. If the 1933 judgment had remained a dead letter, the reason was that, in that quarter of Beirut, claims to land were so involved, and in some cases imprecise, that it had proved impossible to give concrete effect on the actual ground to the decision taken. An interpretative judgment was therefore necessary, but the Sayur heirs had not wished for that. Their attacks upon the High Commissioner were unjustified: the latter had never said that the Sayur heirs would not obtain justice, but simply that the Druzes would not lose their cemetery. In accordance

with the procedure suggested by Lord Hailey and, in the event of a final judgment against the Druzes, it was intended to expropriate the land, while doing justice to the rights of the Sayur heirs at the expense of the State.

M. RAPPARD observed that, in that case, the Sayur heirs would duly obtain payment. For the time being, however, they had neither their money nor their land. Did not the comments just made by M. de Caix amount to a criticism of the mandatory's jurisdiction in the matter ?

M. DE CAIX repeated that, when an attempt was made to apply the judgment on the land itself, it had been found impossible to do so. That was due to the confused character of land legislation at the period in which the rights advanced by the parties concerned were said to have originated. The question could only be resolved by means of an interpretative judgment.

M. RAPPARD objected that the heirs had secured a judgment on appeal which put them entirely in the right.

M. DE CAIX stated that it had proved impossible to apply the judgment on the land itself and that the parties concerned still had means of recourse to the law. As to the question of substance, it might well be asked whether the 1933 judgment had taken into account the uncertain and confused nature of the rights existing at the time when the plaintiffs claimed to have obtained those which they desired to exercise.

Lord HAILEY only wished to make it clear that, in his opinion, it was difficult for the Executive to review the merits of a case in which a decision had been reached by the highest court of the country. There were extra-legal remedies open to it, such as legislation, but it could not properly go behind the legal position created by such a judgment.

M. DE CAIX repeated that, in order to settle the matter finally, an interpretative judgment had become necessary. Such a judgment, as the covering letter showed, had not been sought by the parties. The covering letter also drew attention to the existence of forms of legal action which still remained open to them.

Lord HAILEY suggested that it was for the Executive to apply for such an interpretative judgment, and not the plaintiffs, who had the decree (whatever its merits might be) on their side.

M. DE CAIX preferred not to enter into a discussion of the obligations which, in such a case, would rest upon the plaintiffs and the public authorities. The fact remained, however, that legal means still remained open for the parties who, since 1933, had refrained from having recourse to them.

PETITION, DATED SEPTEMBER 25TH, 1937, FROM M. KASSEM MOUSTAPHA,  
M. KHALED HAMAD-EL-KHATIB AND OTHER SIGNATORIES OF THE EL ARKOUB DISTRICT  
(*Rapporteur*: M. PALACIOS).

M. PALACIOS asked what was meant by " Jeunesse arnéliote " ? He imagined it meant young people from the Jebel Arnel. What was the political significance of their organisation, and its strength ? According to the mandatory Power, the incident described in the petition was largely personal in character. The young people who signed the petition described themselves as " Liberals ".

M. DE CAIX replied that the term " Liberals " was one which the petitioners applied to themselves. They represented a reaction by the local youth against the influence of the older notables and, in particular, the religious leaders. The Jebel Arnel was mainly a Shiah district with fairly strong particularist leanings. Under the Lebanese regime, the Shiahs had obtained some satisfaction on matters on which they had been unable to obtain it before—for instance, the appointment of Cadis of their own cult. The youth in question, who wanted to get rid of the elder members of the community, looked to the Syrian Nationalists for support, which explained their unitary demonstrations against Lebanon.

PETITION, DATED OCTOBER 24TH, 1937, FROM M. SAMI SLIM, TRIPOLI  
(*Rapporteur*: M. SAKENOBE).

M. SAKENOBE explained that the petition related to the elections to the new Lebanese Parliament. At the end would be found the following sentence : " The murder you have taken as a pretext for prohibiting assemblies was due to a dispute between the murderer, who is the right hand of the President of the Lebanese Cabinet, and the victim about a certain sum of money advanced by the former to the latter for buying votes for Government candidates." There would seem to have been a riot during the elections. Did the accredited representative accept the allegation contained in the sentence quoted ?

M. DE CAIX said that, as far as he could remember, the murder was not committed during the elections, but before. Consequently, it was not really an electoral incident. Furthermore, he could not say that there was no ground for criticism of the manner in which the Lebanese authority had conducted the elections.

PETITIONS (FIVE IN NUMBER), DATED SEPTEMBER 25TH, AND DECEMBER 10TH, 14TH, AND 15TH, 1937, AND JANUARY 9TH, 1938, FROM INHABITANTS OF DAMASCUS AND HOMS  
(*Rapporteur*: Count DE PENHA GARCIA).

Count DE PENHA GARCIA said that these five petitions, all mainly political in content, called to mind (as did the preceding petitions) many other earlier petitions. They contained such expressions as "Anarchy prevails everywhere", "Personal life is in danger", "Personal freedom", "Freedom of the Press and of thought", "Domiciliary inviolability", "Under this reign of terror", etc. In its reply, the mandatory Power described all these petitions as unduly coloured by political feeling, and took the view that none of them deserved much attention. There was, of course, a struggle against the political *bloc* constituted by the present Government.

For his personal enlightenment, Count de Penha Garcia would like to know whether the present Opposition was as embarrassing as the former Opposition, in so far as the prospect in Syria and the responsibilities of the mandatory Power were concerned, or whether it was more conservative than the former Opposition, though equally unrestrained in utterance and violent in action.

M. DE CAIX replied that the members of the Opposition could not be described as more conservative than the Nationalist *bloc*. On the contrary, it was the more advanced elements who had formed an Opposition to the Nationalist *bloc* at present in power. This Opposition had taken over the old grievances of the *bloc*, which it now accused of being too ready to come to terms with the mandatory Power.

The present Opposition was certainly less powerful than the former, as it comprised only the most advanced section of the Nationalists, who were in opposition down to the time of the 1936 Agreement.

PETITION, DATED MARCH 1938, FROM M. KHALED DAGHESTANI, HOMS, AND OTHER CIRCASSIANS OF THE MOHAFAZATS OF HOMS AND HAMA (*Rapporteur*: M. SAKENOBE).

M. SAKENOBE asked how many Circassians there were in the Mohafazats of Homs and Hama. According to the petition, there were 30,000 in the whole of Syria, which seemed a very small number. There were presumably, therefore, still fewer in the two districts in question.

M. DE CAIX could not exactly say how many there were in the Homs and Hama district, where there were only a few Circassian villages. The covering letter explained that most of those villages were in the neighbourhood of Kouneitra and had a population of approximately 12,000.

M. SAKENOBE enquired as to their social and economic position in Syria.

M. DE CAIX replied that they were peasants of the same type as all the other peasants in the country. Their villages, crops and animals might, in certain respects, be slightly better cared for, as their ancestors came from a richer country. That seemed to be the case in the Kouneitra district. But it could not be said, on the whole, that there was any great difference, as regards their economic circumstances, between the Circassians and the rest of the rural population of Syria.

M. SAKENOBE recalled that the Circassians appeared to have been the victims of harsh treatment some five or six years ago. What was the present situation?

M. DE CAIX could not say that they were considered with greater favour. Some people criticised the Circassians for joining the squadrons which had faithfully assisted the French troops in the Levant, particularly during the disturbances in 1925/26. Furthermore, the Circassians desired to maintain their own language, although they were good Syrian citizens, which was contrary to the desire of the Syrian nationalists in power for unification and assimilation.

M. SAKENOBE observed that the petitioners had advanced eleven requests, including that of being entitled to representation in the Syrian Parliament and of taking a share in various branches of the Administration. Were those requests excessive, and could they be granted or not?

M. DE CAIX thought that only some of their requests were justifiable. Some of their demands ran counter to the fact that the minorities system related only to religious communities. The Circassians, being Sunnis like most of the Syrians, were not a religious minority. Apart from the provisions in the Syrian Constitution relating to freedom of language, linguistic minorities had no special rights.



The most reasonable request of the Circassians was for teaching in their own language in the schools of the villages of which they formed the population. They had undoubtedly a right to open private schools, and they availed themselves of it at Kouneitra, but their requests applied to the public school.

PETITIONS (FOUR IN NUMBER) RELATING TO SYRIAN UNITY (*Rapporteur*: M. SAKENOBE).

M. SAKENOBE observed that the petitions were rather old. Who were the petitioners? One of the petitions was signed by the President, Vice-President and members of the "Representative Council of the Government of Latakia". Were those persons officials of the Government of Latakia?

M. DE CAIX replied that none of the petitioners were officials: they were members of the Council set up to assist the Government of Latakia to administer the district. The Council was elected under rules very similar to those adopted in the Syrian and Lebanese elections. A few members of the Council were appointed by the Government.

M. SAKENOBE asked what was their present position. Were they still in touch with the local Mohafazats? Were they still autonomists?

M. DE CAIX replied that the petitioners were still members of the Representative Council. It was stipulated in 1936, when the Government of Latakia was incorporated in Syria, that the Representative Council, which then became the Mohafazat Administrative Council, would be maintained until the term of office of its members expired.

M. SAKENOBE asked whether the petitioners still pressed for Latakian independence, as would appear from the petitions.

M. DE CAIX replied that some of them, in particular M. Ibrahim Elkinj, would much prefer to see established an autonomous Government of Latakia. The least autonomistically minded of the Alawites were in favour of maintaining the special status of the Mohafazats. Some of them had been led to support the incorporation of the province in Syria because of personal favours shown them by the Damascus Government.

PETITIONS CONCERNING THE LEGISLATIVE ELECTIONS HELD IN THE MOHAFAZAT OF LATAKIA IN OCTOBER 1937 (*Rapporteur*: M. PALACIOS).

M. PALACIOS said that most of the petitioners protested against the use of terrorism, as evidenced particularly in the activities of the "Iron Shirts". Was this a Fascist organisation in the pay of the Syrian Government? The petition revealed that there was both support for and opposition to the National Government; there had doubtless been defections, and also complaints alleging that France had abandoned her faithful friends.

M. DE CAIX replied that the organisation in question was composed of young Nationalist Syrians who wished to bring pressure to bear upon those they considered too moderate. They styled themselves "Iron Shirts", as others elsewhere styled themselves "Black Shirts" or "Brown Shirts"; but they certainly did not wear armour! He believed that the list of misdeeds given in the petition was somewhat exaggerated, although there might well have been, in one or two places, a few disturbances provoked by those youths. It could not be denied, however, that administrative pressure had been brought to bear on the autonomists, though by means having little to do with the activities of the "Iron Shirts". No doubt the authorities made themselves felt during the Latakia elections—but in that Syria was no exception to a rule which, it must be admitted, existed in many other countries. Since it had had control of the Mohafazats, the Syrian Government had sought to discourage the opponents of unity.

PETITIONS, DATED DECEMBER 2ND AND 15TH, 1937, FROM M. RACHID YOUSSEF BEIDOUN, M. IBRAHIM FAYAD AND OTHER SIGNATORIES, BEIRUT (*Rapporteur*: M. PALACIOS).

M. PALACIOS said that, according to the petition, the Shiah did not appear to enjoy much favour so far as securing posts in the Administration was concerned. In Lebanon, moreover, they appeared to be a not inconsiderable community.

M. DE CAIX replied that they were not inconsiderable as to numbers, since there were probably 80,000 in Lebanon, whereas there were only a few thousands in Syria. They had no ground for complaint against the Lebanon regime as regards their community rights, since their cult had been given legal recognition by the Lebanese Government and since, under the mandates system, they had their own cadis. Their treatment was therefore the same as that of the other communities, as was the case throughout Lebanon.

Their complaint was that their share in the public services was not commensurate with their numbers. That was a never-ending grievance in the country. As the covering letter pointed out, the Shiah district of Southern Lebanon was still one of the least developed in the Lebanese Republic. For that reason, it was difficult to allocate many posts to Shiahs, who would hold practically none if the Administration recruited candidates by competition. Nevertheless, an effort had been made to appoint Shiah officials, and it would be increasingly easy to do so now that public schools had been opened in Shiah districts. Education alone—in regard to which the Christians were far ahead—could remove inequality between the communities.

PETITION, DATED NOVEMBER 25TH, 1937, FROM M. MOHAMMED ADIB KHALED AND OTHER SIGNATORIES, TRIPOLI (*Rapporteur*: M. SAKENOBE).

M. SAKENOBE found that the petitioners complained of certain irregularities in distributing the subsidies to schools of the Christian communities, alleging that those grants were made without the approval of the Lebanon Parliament. Was such approval necessary?

M. DE CAIX thought not. He did not know the exact situation in Lebanon; but in France a block credit was allocated for a certain purpose and was distributed by the Administration as it thought best in the light of the objects to be safeguarded.

M. SAKENOBE did not gather that the petitioners were complaining of the amounts granted to each school, so much as of the irregular procedure followed in allocating the grants.

M. DE CAIX had no information on the subject, and could not say whether the petitioners were justified in complaining of the procedure followed. He did not think it had been irregular, however. Moreover, there was no doubt that the grants had been allocated to the communities in the same proportion as in past years.

PETITIONS (FIFTEEN IN NUMBER) FROM INHABITANTS OF THE UPPER JEZIREH  
(*Rapporteur*: M. SAKENOBE).

M. SAKENOBE explained that most of those petitions were consequent upon petitions examined by the Commission at its last session. Accordingly, they dealt with the same questions. In two of them, however, the petitioners asked the League of Nations to intervene to secure the payment of compensation to certain inhabitants of Amouda, whose property had been destroyed. Had the mandatory Power the intention of making any payment to those persons in order to assist them in one way or another?

M. DE CAIX said that he had asked for special information on this matter. The answer had been that, from the legal standpoint, no compensation was due by the Syrian Government. He knew, however, that the troops which had occupied the district in question had to some extent endeavoured to make compensation for the damage done.

M. SAKENOBE pointed out that, according to the petitioners' statements, which conflicted with the Government's information, no officials had been dismissed.

M. DE CAIX replied that, in any event, following upon the earlier difficulties at Hassetché, one whole section of officials had been recalled from Jezireh.

M. SAKENOBE observed that, according to the petitioners, the officials were not dismissed, but rewarded.

M. DE CAIX had heard nothing of the kind, though there was no doubt that these officials had met with no marked hostility from their political and religious affiliates in Damascus.

PETITIONS, DATED AUGUST 14TH AND OCTOBER 27TH, 1937, FROM DR. ANTOINE CHALFOUN, BEIRUT (*Rapporteur*: M. PALACIOS).

M. PALACIOS noted that the petitioner boasted of his ability to collect up to 60,000 signatures in support of a request for the maintenance, in a direct and absolute form, of the French mandate, on the ground that the country was "now on the edge of an abyss".

In its covering letter, the mandatory Power observed that there were no grounds whatever for thinking that the petitioner had collected such a number of signatures, and closed with the statement that, "although the petitioner's good intentions could not be questioned, it was nevertheless the fact that his influence within the country was one that should be discouraged". Could the accredited representative explain why the mandatory Power appeared to be looking with disfavour upon an individual who was anxious to uphold the mandate and the full authority of France?

M. DE CAIX said that the petitioner was no doubt exaggerating when he said he could collect 60,000 signatures. There was no doubt that in non-political circles in Lebanon there was a movement in favour of a Government regime very different from the present regime and far less complex and costly, in which French authority would make itself felt directly. Lebanon seemed to waver between a craving for parliamentary institutions, whenever restrictions were placed on them, and a desire for a more simple and direct form of Government when the parliamentary system had been functioning for a time, with all its complications, including ministerial crises. It would be difficult for the Government to follow these variations and to encourage tendencies towards a return to the direct administration of the mandate, which had been abandoned for a long time. There could be no question of abandoning the Treaty policy, which would, moreover, lead to movements in the opposite sense. Reform and simplification could be recommended, but not imposed.

PETITIONS, DATED NOVEMBER 9TH, 13TH AND 16TH, 1937, AND JANUARY 4TH, 1938, FROM CHAKER NIMET BEY EL CHAABANI, BEIRUT (*Rapporteur*: Count DE PENHA GARCIA).

Count DE PENHA GARCIA said that these petitions deserved the attention of the Commission. He thought that the conclusion would be justified that little heed was paid to the freedom of the Press in the mandated territory. He summarised the subject-matter of the petition. The editor of the prohibited newspaper complained of having been the victim of a whole series of aggressions. A further serious factor was that the Press offence mentioned in the petition had been dealt with, not under the Press Law of 1930, but under an Order of 1922. Doubtless, that Order could apply to Press offences in the absence of a special Press law; but, in the particular case, the application of the Order was, if not illegal, at any rate too drastic. The proof of that was the fact that the President of the court had refused to accept the findings of the court and had attached a record of his own dissent from the sentence. In addition, the accused had immediately been imprisoned without even awaiting the result of his appeal. Lastly, Count de Penha Garcia had been struck by the fact that the petition came from a man possessing a certain political position, who concluded his petition with a number of vigorous complaints; a qualified representative of an opposition party had therefore raised grievances which went very much farther than had been the case hitherto. It was a matter for regret that an unfortunate impression should be given in regard to the respect at present shown in Syria for the freedom of the Press, and even for the freedom of the person. He feared that the Syrian Government had become somewhat too authoritarian.

In its covering letter, the mandatory Power confined itself to the comment that, according to the Syrian Government, the newspaper *Al Ahali* had published material "likely to disturb public opinion and public order". Count de Penha Garcia asked the accredited representative whether he did not think it unfortunate that neither the mandatory Power nor the petitioner should have forwarded the text of the newspaper article in question, so as to make it possible to obtain a more complete view of the affair. For his own part, he felt that the mandatory Power's observations did not go to the root of the question. The petition and the various grounds put forward gave the impression that various irregular and illegal activities were at present taking place in Syria.

M. DE CAIX replied that he was bound to admit that, to his way of thinking, the Governments of the States under mandate—which were far more dictatorial on Press affairs than the representatives of the mandate had ever been—were unwilling to allow opposition to be expressed in the newspapers and tended to regard and treat it as seditious.

As for the application of the High Commissioner's Order concerning public order, there would seem to have been some tendency to abuse it. He had heard that view expressed in Damascus during his last visit to Syria.

M. de Caix had asked for a translation of the article, so that some light might be thrown on the matter for the Commission.

Count DE PENHA GARCIA observed that the petitioner had sent the article, with a translation in French, to the High Commissioner.

The CHAIRMAN asked what was the general attitude of the newspaper.

M. DE CAIX replied that its attitude was very definitely that of the Opposition, but he did not think the petitioner—given his character and relations—held very violent views. He found it difficult to believe that the petitioner had gone so far as to threaten public order, which would have justified the application of the High Commissioner's Order.

The CHAIRMAN observed that he was struck by the detached tone of the observations of the mandatory Power. The latter seemed content merely to act as an intermediary between the Mandates Commission and the Syrian Government, and to have no opinion of its own. Yet it was to the mandatory Power that the Commission addressed itself as the authority responsible in Syria to the League of Nations.

M. DE CAIX understood the Chairman's point. The attitude he had described was the outcome of the policy followed since the signature of the Treaty. As M. de Caix had just said, he did not think the Syrian authorities allowed sufficient freedom for criticism. As for the

attacks on the editor of the newspaper, it was not likely that those involved had wished to kill him, but merely to give him a lesson and intimidate him. They were to be blamed, of course, but their act must be attributed not to the Government but to the political organisations which were inflamed by party spirit.

M. RAPPARD asked whether the mandatory Power still felt responsible for defending the principle of the freedom of the Press. It seemed, as the Chairman had observed, that the mandatory Power, now that it had handed over the reins, appeared to be content to transmit to the Commission the explanations furnished by the Government of the mandated territory.

M. DE CAIX admitted that the covering letters might appear to manifest a somewhat detached attitude, but before any opinion was formed on that score, the incriminated articles must be examined. The view taken of the severity of the Syrian Government must depend on the tone and the conclusions of the articles.

The CHAIRMAN asked the Rapporteur for his opinion.

Count DE PENHA GARCIA said that he was still in doubt. For the moment, and in the absence of further information, he proposed to make in the conclusion of his report an observation to the Council.

The CHAIRMAN asked the Rapporteur whether one issue only of the newspaper would be sufficient for his purposes. There appeared to have been repeated offences.

Count DE PENHA GARCIA replied that he would have to have a translation of the article in question.

M. DE HALLER asked whether the Commission would not prefer to adjourn its announcement of its conclusions until the autumn session, when it would examine the annual report on Syria.

Mr. DE CAIX added that, if the Rapporteur wished to have the document, a request in that sense would be forwarded to Beirut at once, in support of his own to the same effect.

Count DE PENHA GARCIA agreed to that suggestion. *The examination of the petition was adjourned to the autumn session.*

PETITION, DATED NOVEMBER 22ND, 1937, FROM M. IBRAHIM AHDAB AND OTHER SIGNATORIES.

PETITION, UNDATED, FROM M. HENRI JABBOUR AND OTHER SIGNATORIES INHABITING VILLAGES IN THE DJEBEL DISTRICT.

PETITIONS, DATED DECEMBER 4TH AND 5TH, 1937, FROM M. CHARLES ASFAR, DAMASCUS, AND M. KHALED SEBAHI, HOMS.

PETITIONS (TEN IN NUMBER) CONCERNING THE SUSPENSION OF THE LEBANESE NEWSPAPER, "SAOUT EL-CHAAB".

M. DE HALLER pointed out that all four petitions reached the Secretariat after the opening of the session. At its twenty-third session,<sup>1</sup> the Commission had decided, once for all, that in such cases the Chairman should not appoint Rapporteurs, but should adjourn the discussion until the following session, except in urgent cases.

*The CHAIRMAN ruled that examination of the above petitions should be adjourned until the following session.*

#### **Syria and Lebanon : Adjournment to the Autumn Session of the Examination of the Annual Report for 1937 (continuation).**

The CHAIRMAN, reverting to the French Government's request for the adjournment of the examination of the annual report, recalled that, although the discussions had often gone outside the field covered by the annual reports and dealt with the whole question of the present position of the territory, it had nevertheless always been understood that the accredited representative was entitled to refuse to engage in any discussion of events occurring after the end of the period under review. In the present case, it would have been open to the accredited representative to invoke that understanding, in which case the Commission would have confined its examination to the contents of the report.

In those circumstances, the reasons given by the accredited representative in support of his Government's request had not convinced the Commission of the alleged disadvantages attaching to the examination of the 1937 report at the present session. The Commission could

<sup>1</sup> See Minutes of the Twenty-third Session of the Commission, page 132.

only express its regret at the adjournment, to which it had agreed in deference to the wishes of the mandatory Government and because the belated arrival of the document, when the Commission had already begun its session, ruled out any possibility of examining it at that session.

M. DE CAIX observed that the report would have been forwarded as it stood, despite the gaps in its contents, if the request for adjournment had not been submitted by the French Government at the very moment when the report was being finally completed.

Continuing to speak on behalf of the Commission, the CHAIRMAN repeated that it desired to draw attention to its constant concern to safeguard the future of minorities of race, language and religion in territories now under mandate which were about to be called upon to lead an entirely independent existence. The Commission had given expression to its concern in this connection on different occasions, the first occasion being that on which it was invited by the Council to lay down the conditions entitling a mandated territory to be recognised as fully independent. In those circumstances, the Commission thought that it would be useful for the mandatory Power to know, for its own information, that the Commission did not propose to recommend to the Council of the League any solution of the minorities problem—which had not been referred to it in good time—which, in its opinion, would not effectively safeguard the future of those minorities.

M. DE CAIX wished to recall that his Government was so well aware of the Commission's rights as regards its conclusions to be drawn at the time when the question of the termination of the mandate arose, that he had been careful to point out, during the examination of the Franco-Syrian and Franco-Lebanese Treaties at the session held in the autumn of 1937,<sup>1</sup> that those rights, and those of the League of Nations in general, could not be exhausted owing to the fact that the mandatory Power had laid down certain guarantees for the minorities. He had no doubt, he said at the time, that the provisions of the Franco-Syrian Treaty and its annexes were sufficiently comprehensive to cover all the interests that had to be protected; but, he added, the Mandates Commission was not bound by those considerations and was entitled, when the time came, to express its own views and make its own demands. There was no inconsistency, therefore, between the point of view of the Commission, as stated by the Chairman, and that of the mandatory Power.

**Syria and Lebanon : Possibility of Assistance from Syria during the Disturbances in Palestine :  
Question of the Supervision of the Activities of the ex-Mufti.**

The CHAIRMAN was anxious to take advantage of the accredited representative's presence to draw his attention to a matter about which some members of the Commission were somewhat concerned.

A neighbouring territory was the scene of serious events, which were well known to everybody. A large section of public opinion held that the insurrectionary movement in Palestine was to a large extent maintained and supported by consignments of arms from Syria, the supply of recruits, singly or in groups, from Syria, and instructions issued by leaders dwelling in Syria, who directed and co-ordinated the movement. The question had arisen during the examination, only just completed by the Commission, of the annual report for Palestine for 1937.<sup>2</sup> As M. de Caix would see from the Minutes, the accredited representatives for Palestine of the United Kingdom Government had been at pains to make it clear that the responsible French authorities in Syria and Lebanon had done all that lay within their power to put an end, as far as possible, to the influx of assistance to the Palestine insurgents.

Some of the members of the Commission had been particularly concerned to learn that the individual who was considered to be at the head of the insurrection, and who was now a refugee in Lebanon, was continuing, according to certain information, to engage in political activities and was in touch, through intermediaries, with the leaders on the spot of resistance to the mandatory authorities of Palestine. The Chairman desired to offer the accredited representative the opportunity of giving certain explanations on the subject. Syria, Lebanon and Palestine were not countries entirely foreign to one another, all three being administered under mandates from the League. As he had already observed, it was inconceivable that one of those territories should tolerate a focus of resistance to the exercise of the mandate in a neighbouring territory.

In brief, he would ask the accredited representative to say whether the ex-Mufti of Jerusalem was subject to a sufficient degree of surveillance to guarantee his inability to engage in any political activity in the country which had given him refuge.

M. DE CAIX had no difficulty in replying: he was convinced that it was possible for arms and recruits to cross the frontier in small quantities. In a country where disguise was easy, such leakages could not be entirely prevented, especially when the mass of the population were instinctively in sympathy with the participants in what they regarded as a holy war. But any help that might reach the Palestine insurgents reached them in defiance of the desires of the mandatory Power, which was doing its utmost to prevent these leakages, toleration of which would be contrary to its obligations towards the neighbouring mandate. During his last visit to the Levant, at the beginning of the year, he had himself seen something of

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 21.

<sup>2</sup> Pages 37-38, 44-45.



the arrest of arms-smugglers by the efforts of the *Sûreté générale*. While, therefore, repressive measures were very difficult to apply, there was a genuine and unquestioned desire to apply them.

Apart from any considerations of the correct attitude to be observed in relations with the neighbouring mandate, the two mandates had a common interest in the maintenance of order. While they were not both in the same position, since the mandatory Power in Syria was not faced with any problem similar to that of Zionist colonisation, there was nevertheless, and of necessity, a community of interests between the responsible authorities of both territories.

As for the ex-Mufti of Jerusalem, it would be very difficult to forbid him to discuss politics with persons who came to see him. But he lived in an environment which lent itself as little as possible to intrigues. He was at Djouni, in Lebanese territory, about 20 kilometres from Beirut, a place with a purely Christian population, which had no desire whatever to assist in the formation of bands for Palestine.

M. de Caix knew that the necessary surveillance was being exercised over the ex-Mufti. It might be, however, that this personage, on whom events had conferred symbolic significance, was not so important a factor as was commonly supposed. He received visitors, no doubt, who came to talk politics with him ; but he was still required to observe the rules of hospitality incumbent on a political refugee. There was nothing to show that he was a leader of belligerents ; nor was there any reason to suppose that the political banditry—the guerrilla warfare—in Palestine needed any general leadership from outside. It must be easy to find men on the spot in all parts of Palestine, capable of organising and leading raids, without any necessity for the guidance from a distance of the ex-Mufti.

M. de Caix did not, in short, think the ex-Mufti played the part attributed to him. On the other hand, as far as the activities of refugees and consignments of arms were concerned, the mandatory Power was doing its utmost to assist the authorities of the neighbouring mandate.

The CHAIRMAN asked whether the place of residence of the ex-Mufti in Lebanon was his own choice or had been assigned to him by the French mandatory authorities.

M. DE CAIX was not sure ; but he seemed to remember that Djouni had been chosen for the ex-Mufti as a place of residence by the mandatory authority, or that he had chosen it himself from a list drawn up by the mandatory authority. There was no reason why he should have fixed on a Lebanese Christian town. He would have found a more sympathetic environment in other larger centres in the French mandated territories, where there were more Moslems, and the comings and goings associated with his presence would more easily pass unobserved. His choice must therefore have been inspired from some outside quarter.

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## TWELFTH MEETING.

*Held on Wednesday, June 15th, 1938, at 10 a.m.*

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### **Togoland under French Mandate : Examination of the Annual Report for 1937.**

M. Besson, Director of the Economic Agency of French West Africa, accredited representative of the mandatory Power, and M. Thébault came to the table of the Commission.

#### WELCOME TO THE ACCREDITED REPRESENTATIVE.

The CHAIRMAN welcomed M. Besson and M. Thébault. The latter was Counsellor to the Court of Appeal and formerly Public Prosecutor of the Republic at Lomé. He had made a special study of native customs in Togoland and would be able to give valuable information on a matter of particular interest to the Commission.

#### GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

M. BESSON made the following statement :

I thank you, Mr. Chairman, for your appreciative remarks addressed to M. Thébault and myself. Following the usual practice, I propose to make a rapid general survey of the situation in Togoland in 1937.

The economic situation in Togoland, as in every other part of West Africa, largely depends on the results of the harvest. In 1937, the weather was not particularly favourable ; and certain crops, such as the oleaginous plants grown in the southern districts, were much smaller than in the previous year. But, thanks to the efforts made by the native provident societies and to the goodwill shown by the natives, who, at the suggestion of the former, had increased

considerably the area under cultivation, the general results were fairly good. In the case of certain products such as coffee and maize, the crops were even large enough to allow of increased exports.

For these reasons, there was a large increase in the money values of the trade figures, which rose from 91 million francs in 1936 to 156 million francs in 1937; but this increase in values was not accompanied by a similar increase in quantities. The volume of trade in general declined—namely, from 82,000 tons in 1936 to 76,000 tons in 1937. The decrease was due, in the case of imports, to the large stocks accumulated in 1936, and, in the case of exports, to the poor crop of oleaginous plants to which I have already referred. As compared with 1936, exports of palm nuts, for instance, showed a decrease of 9,000 tons; palm oil, of 523 tons; and copra, of 2,611 tons. On the other hand, exports of coffee increased to 405 tons as against 163 tons, and maize exports were doubled (from 7,000 tons to over 14,000 tons).

The work of the native provident societies, the number of which has increased during the year from three to nine—corresponding to the number of administrative sub-divisions—has been extended along the lines indicated for the year 1936. In 1937, in particular, they distributed a considerable amount of processing machinery to their members, including six mechanised crushers for palm-nuts, a ground-nut decorticator and sorter and three coffee decorticators. They also distributed a large number of selected palm, cocoa and coffee plants. In this latter connection, a committee for the technical study of coffee in Togoland has been organised to investigate all questions peculiar to the territory concerning the cultivation, preparation and packing of coffee.

Lastly, the efforts which were begun in 1936 to increase the cultivation of ground-nuts, particularly in the northern districts, have been continued; valuable assistance has been afforded by the native provident societies which distributed seed. Unfortunately, the results in the case of ground-nuts, and other products such as manioc, have not come up to expectations, owing to the lack of rain. As regards cotton production, which showed a slight increase in 1937, efforts are chiefly directed towards the improvement of the product by the selection of the best varieties and the most appropriate methods of cultivation.

Traffic on the various railways in Togoland has suffered comparatively little from the falling-off in production. Although there was a decrease of 6,000 tons in the goods traffic in 1937 as compared with 1936, the passenger traffic has increased considerably, rising from 675,000 units to over a million units, while the total receipts are 800,000 francs higher.

There was a similar improvement in the financial situation. Customs receipts in 1937 amounted to 23 million francs, representing an increase of 7 millions over the previous year (1936) and 6 millions as compared with the budgetary estimates. Similarly, the budget as a whole for 1937 clearly showed, at the end of the financial year, that the economic activity of the territory continues to be very satisfactory, since there is an excess of receipts amounting to 9 million francs, which, as usual, has been transferred to the Reserve Fund.

Before concluding this survey, I should like to give particulars regarding the administrative reform of the territory, as to which the Commission expressed apprehensions last year.<sup>1</sup> The Commission was alarmed by these successive reforms; but I can assure it that the process is now slowing down. The object of the reforms was, in the first place, to cope with the financial difficulties of the territory at a time when we were faced with an unhealthy budget showing a deficit, and, secondly, to promote the economic and social development of Togoland to the fullest possible extent with the help of the technical services of the Government of French West Africa. The experience of the last few years has shown that it was in the interest of the population of the territory that the Governor-General should become High Commissioner for Togoland and that the Chief Administrator should be reinstated as Commissioner of the Republic of Lomé, under the Decree of July 20th, 1937. I would add that we are gradually reverting to the former arrangements, and that the financial and administrative autonomy of the territory is being fully re-established. For instance, not only was the General Treasury re-established by a Decree of May 6th, 1937, but the services common to Dahomey and Togoland are gradually being eliminated. I have just received a cable informing me that the Education, Posts and Telegraph Departments were re-established in Togoland on January 15th, 1938, and the Public Works and Transport Departments on January 28th. There are now only two heads of common departments—namely, the medical officer who is director of the Public Health Services; and the veterinary surgeon who is in charge of the Veterinary Service both in Togoland and in Dahomey.

Before terminating, I would add that, at the request of the Governor-General and by direct action of the Governor, M. Montagné, considerable efforts have been made to increase the collaboration of native elements with the local administration.

In short, the material and moral situation of the territory is as satisfactory as it could be, while the general economy of the country is making good progress. My impression is that the population is enjoying steadily increasing prosperity.

The CHAIRMAN thanked the accredited representative for his statement.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 176.

FORM OF ANNUAL REPORT.

The CHAIRMAN said that, at the thirty-third session of the Commission,<sup>1</sup> M. van Asbeck thanked the mandatory Power for communicating to the Commission an "anthology" of the questions put by the Mandates Commission, and expressed the hope that this "anthology" would appear in future reports and would be kept up to date. He was gratified to note that the mandatory Power had attached the "anthology" in question to the present report. Would it be possible to add to each question the year and session of the Mandates Commission at which the question was put?

M. BESSON took note of the request.

The CHAIRMAN said that the report (Chapter IV, pages 135 to 138) contained "Replies to the Observations of the Members of the Permanent Mandates Commission". These included (a) the replies to the observations made by the Commission and (b) the replies to questions put by individual members of the Commission. Would it not be possible for the report to separate the two, or at any rate to alter the heading of the chapter to prevent misunderstanding?

M. BESSON took note of the request.

STATISTICAL INFORMATION REGARDING TERRITORIES UNDER MANDATE.

The CHAIRMAN drew the attention of the accredited representative to the following passage in the Minutes of the thirty-third session :<sup>1</sup>

"The CHAIRMAN recalled that M. Orts had said in 1936 that the Commission would be grateful if the mandatory Power would insert in the report each year a table similar to the table which would be found in the document containing statistical tables relating to public finance, trade and demographic movements in the territories under mandate."

No such table was included in the report for 1937. He presumed the request had been overlooked.

M. BESSON answered that the request had not been overlooked; but the necessary information had reached the author of the report too late for inclusion. He would see that the table was prepared and sent to individual members of the Commission as soon as it was printed.

ADMINISTRATIVE ORGANISATION OF THE TERRITORY : SUPPRESSION OF CERTAIN MEASURES INTRODUCED FOR REASONS OF ECONOMY : DECREE OF JULY 20TH, 1937.

The CHAIRMAN noted with satisfaction the various cases in which posts of Heads of Departments had ceased to be common to the mandated territory and the neighbouring French colony (page 11 of the report). It followed that the mandated territory was gradually resuming the external aspects of administrative autonomy, which had to some extent been affected by measures taken for reasons of economy.

M. BESSON said that the system in force at the present time had behind it two years of experience. Not only had the territory resumed its former administrative aspect, but definite progress had been made, since, with the retention by the Governor-General of French West Africa of the title of High Commissioner for Togoland, it had become possible to apply to the technical services of the Governor-General for help when expert knowledge of some particular subject was required in Togoland. In M. Besson's opinion, there was no longer any need for changes in the present regime.

M. PALACIOS wished to emphasise what had just been said by the Chairman. The Mandates Commission could not but welcome the administrative reform effected by the Decree of July 20th, 1937, which modified the reform brought about by the Decree of September 19th, 1936, in certain important respects set out both in the report and in M. Besson's statement. In a general observation submitted to the Council at the end of its thirty-third session,<sup>2</sup> the Commission stated that it :

"... was gratified to learn that there had been substantial improvement in the financial situation of the territory. It would be glad to know whether this improvement is likely to induce the mandatory Power to cancel the administrative measures taken on grounds of economy during recent years."

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 104.

<sup>2</sup> *Ibid.*, page 176.

It appeared from the report (page 11) and from the accredited representative's statement that the functions allocated to the Commissioner of the Republic were now transferred to the High Commissioner for the territory; that the list of departments shared in common by Togoland and Dahomey had been reduced; and that the separate Finance Department of Togoland had been re-established at Lomé. As a direct consequence of the reform also, the contribution paid by Togoland to Dahomey had lapsed. Finally, at the end of the year, the principle of the transfer back to Lomé of the Post Office, Education, Public Works, and Railways Departments had been admitted, and the consequent reforms were now on the point of completion.

The relevant passages in the report and in the statement seemed to indicate that the mandatory Power intended to reverse entirely the recent administrative reform of the territory. Little remained of that reform, and the administrative organisation was reverting to the *status quo ante*.

M. BESSON replied that it was sufficient to refer to the results achieved as the outcome of the administrative reform, to which he had drawn attention in answer to the Chairman's remarks.

Count DE PENHA GARCIA observed that the report said the population had expressed their joy at the return to the former situation (page 11 of the report). He would like to know in what form their joy had been manifested.

M. BESSON replied that the natives were proud to have as their chief a High Commissioner of the Republic. That was a very intelligible feeling.

Count DE PENHA GARCIA gathered that the Administration had reverted to an arrangement of divisions or areas more in accordance with the geography and ethnography of the country, and that a larger number of native officials were being included in the administrative staff. Was that because previous measures were now thought to have been premature, or was it a case of continuation of the former policy?

M. BESSON replied that the mandatory Administration had always been concerned to increase native participation in the work of administration. Thus, the Veterinary Services now included native officials (page 12 of the report). Togoland had benefited from the existence of a Veterinary School in French West Africa, a fact which demonstrated the practical benefits of collaboration between the territory and the adjacent Federation.

Lord HAILEY asked whether the Head of the Agricultural Services was in West Africa or in Togoland.

M. BESSON explained that there had never been any common agricultural service for West Africa and Togoland. There was a local agricultural service for Togoland. In the case of the veterinary services, the chief veterinary surgeon of Dahomey was still the chief veterinary surgeon for Togoland. Full particulars on the subject would be found on page 73 of the report.

He added, in reply to a question by M. van Asbeck, that the Head of the Agricultural Service for Togoland was an agricultural expert residing at Lomé.

M. VAN ASBECK asked whether the new reform, based on the Decree of September 19th, 1936, had been satisfactory from the financial standpoint. The decree said:

“The Commissioner of the Republic and the heads of Departments may appoint, at the expense of Togoland, a small secretariat to deal specially with questions concerning Togoland.”

Did this entail heavy expenditure for Togoland?

M. BESSON replied in the negative. The expenditure involved did not exceed 50,000 French francs.

Lord HAILEY asked whether the Decree of January 6th, 1937, providing for the organisation of an inspectorate of Administrative Affairs in oversea territories, promulgated in Togoland by Order No. 84 (page 141 of the report), modified the existing state of affairs or carried on the former policy.

M. BESSON replied that there was no colony or territory under French mandate where there was not a Chief Administrator, whose duty it was to examine and inspect certain services, and to undertake necessary enquires under instruction from the Governments. The advantage of the system introduced by the decree was that the Inspector for Togoland, although he was under the authority of the Governor-General, was appointed by the Minister for the Colonies, which gave him a more independent standing. It was the fact of appointment by the Minister which was new under the decree.

M. VAN ASBECK noted, from page 12 of the report, that the division into administrative areas, which had been modified in September 1935 by the union of several zones, had again been revised by the Order of June 7th, 1937, re-establishing the former zone of Mango. The

question was raised by the Commission at the time<sup>1</sup> whether the Order of September 1935 would not make access to the offices of the chief towns more difficult for the natives. No change appeared to have been made in the administrative sub-divisions of the southern region. Did that mean that the position in the southern region was regarded as satisfactory, or was it considered advisable to go back to the state of affairs existing prior to the Order of September 4th, 1935 ?

M. BESSON replied that the Administration had not come to any final decision in regard to this matter ; but the general policy was not to increase the number of zones unnecessarily, so as not to increase the number of officials. He had the impression that the situation was likely to be left as it was.

BOUNDARY POSTS ON THE FRONTIER BETWEEN TOGOLAND UNDER FRENCH MANDATE AND TOGOLAND UNDER BRITISH MANDATE : PETITION, DATED AUGUST 9TH, 1937, FROM M. JOHANN A. AGBOKA, PRESIDENT OF THE " BUND DER DEUTSCH TOGOLANDER ", ACCRA.

Count DE PENHA GARCIA noted (page 50 of the report) that some of the boundary posts had split or crumbled in the Aflao sector. With the exception of an old German post, no boundary posts had been torn up. The District Commissioner for Keta and the Commander of the southern zone visited the spot to decide what steps should be taken with a view to replacing the posts which were in bad condition.

As regards the petition, Count de Penha Garcia observed that it appeared from its text that, in one part of the frontier district, there had been trouble between members of the Akposos and Buem tribes. There had even been bloodshed. The question had been brought before the courts. It was stated that the competent British court of first instance had allowed the claim of one of the parties to the dispute. The decision of the British court was not, of course, valid outside the area of its own jurisdiction. If the two Administrations had been able to settle the question between themselves, the solution would have been final. Logically, there was no reason why they should not have done so, since the dispute had administrative as well as juridical aspects, relating as it did to the tenure of the land by the several parties concerned. It might be that an administrative solution at the present juncture would be premature : but there was some ground for apprehension in the prospect of a new judicial decision by the Judicial Committee of the Privy Council, with which an appeal was pending. It was not impossible that the decision of the Privy Council might be the occasion of fresh incidents. Count de Penha Garcia hoped the attention of the responsible authorities in Togoland under French mandate would be drawn to the possibility of further disturbances and to the necessity of taking precautions to cope with them, should they occur.

M. BESSON said he would not fail to draw the attention of the Administration of Togoland under French mandate to the risk of incidents in the connection to which Count de Penha Garcia had just referred.

INTERNATIONAL CONVENTIONS : APPLICATION TO TOGOLAND OF A TRADE AGREEMENT CONCLUDED BETWEEN THE MANDATORY POWER AND GERMANY.

Count DE PENHA GARCIA noted (page 51 of the report) that a trade agreement concluded between the mandatory Power and Germany had been extended to Togoland in 1937. Had it been borne in mind that Germany was no longer a member of the League of Nations ?

M. BESSON said that, so far as he knew, there had been no change in the previous position ; the next report would contain full information on the point.

Count DE PENHA GARCIA would be glad to find in the report each year a list of Conventions in force in the territory.

M. BESSON took note of the request, at the same time remarking that many of the Conventions were of very slight interest.

CLASSIFICATION AND APPOINTMENT OF CHIEFS.

M. VAN ASBECK was grateful for the information furnished in the report regarding chiefs of quarters (page 12). Was the chief of a canton simply the official responsible for the administration of the village, or had he some ethnical standing ?

<sup>1</sup> See Minutes of the Thirtieth Session of the Commission, page 71.

M. THÉBAULT explained that the policy was, as far as possible, to make the cantons coincide with ethnical groups, or at any rate with the extent of the customary powers of a chief. For instance, the Order of August 5th, 1937, reproduced on page 145 of the report, creating the cantons of Vogan and Tabligbo (southern zone, sub-division of Anecho), established areas based on the ethnical map of the region.

M. VAN ASBECK concluded that the chief of a canton was not merely an official of the mandatory Power, but also, and primarily, a native leader of the people, who maintained contact between them and the mandatory Power.

M. THÉBAULT confirmed that interpretation of the situation.

M. BESSON said that the chiefs of cantons might be compared to the mayors of villages in France, inasmuch as they were chosen from among the local inhabitants and were not transferred from one canton to another.

Lord HAILEY wished to know whether, in the mandated territory, the chiefs of cantons were, to use the stock phrases, "recognised" or "appointed" by the Administration.

M. THÉBAULT explained that the Administration always endeavoured to appoint the ethnical chief as chief of a canton, and simply backed up his traditional authority by giving him administrative authority. The system gave complete satisfaction.

Lord HAILEY explained that what he had in mind in putting his question was a certain very well-known circular issued by M. Brévié. Were there still ex-officials, such as non-commissioned officers of the native troops, who had been given the rank of chief?

M. THÉBAULT said he could give Lord Hailey the assurance that there were no chiefs in Togoland, whether of major or minor importance, who were ex-tirailleurs appointed as such to chieftainships.

M. VAN ASBECK asked for information as to the procedure for replacing a cantonal chief. Was the ethnical group consulted? Decree No. 171 of May 6th, 1936, stated that village chiefs were nominated by a majority of the members of the village, whereas the cantonal chiefs were nominated by the Commissioner of the Republic after their names had been proposed by the Administrator.

M. BESSON explained that, before submitting his proposal, the Administrator called a "palaver", in order to find out the wishes of the population, and then proposed the name which seemed to him to be the most popular.

#### ADMINISTRATION OF "COMMUNES MIXTES".

M. VAN ASBECK said that, since 1934, the annual reports no longer contained any information in regard to "communes mixtes". He would like to know if progress was still being made with the admission of natives to a share in the administration of these communes.

M. BESSON replied that, as he had already had occasion to state, the administration of the "commune mixte" of Lomé was working well. As for the other communes, there might be applied to them the maxim that a happy people had no history, and infer from the silence of recent reports on the point that these communes were being governed to the general satisfaction. The policy followed was to give as much scope as possible to the native.

M. VAN ASBECK would nevertheless welcome information in one of the next reports on the question of the collaboration of natives in the administration of the "communes mixtes".

M. BESSON noted the request.

#### PUBLIC FINANCE : TAXATION.

M. RAPPARD congratulated the mandatory Power on the improvement in the financial position of the territory and on the reform of the system of direct taxation. Reference to page 39 of the report showed that the total revenue and expenditure from 1926 to 1936 reflected fairly well the course of economic developments. Revenue and expenditure tended to be lower

during a period of crisis and higher during a period of prosperity. It was instructive to note that expenditure was no higher in 1936 than in 1926 : indeed, if the devaluation of the French franc were taken into account, it was rather lower in 1936.

M. RAPPARD regretted that it had been thought fit to effect certain retrenchments which had had the effect of reducing the salaries of officials and, possibly, the efficiency of the administration.

He pointed out that the graph on page 38 of the report called for explanations and corrections.

M. BESSON said that, in future, graphs of the kind in question would be carefully checked and more clearly explained.

M. RAPPARD mentioned that on page 15 of the report it was said, in connection with the simplification of the system of direct taxation, that " the general aim has been to counter-balance the benefits accorded to the masses by corresponding sacrifices on the part of the wealthier portion of the population ". That statement was difficult to understand when taken in conjunction with the statement on page 30 of the report to the effect that " the surplus, which is made up principally of taxes levied on persons with an income of less than 10,000 francs . . . "

M. BESSON answered that the two passages were not really contradictory, seeing that the basis of assessment for taxation had been extended. The reforms had been welcomed because of the abolition of the Health and Medical Assistance Tax, of which the natives could not see the use. It had been found that taxpayers with an income of more than 10,000 francs included a number of well-to-do natives. Such natives now had to pay higher taxes as a result of the reforms ; but they were reconciled to the prospect, believing it to be only fair that they should pay more.

M. RAPPARD did not suggest that the natives were too heavily taxed ; but he thought it inaccurate to speak of " advantages accorded to the masses " (the phrase used on page 15 of the report), when the taxpayers with incomes of less than 10,000 francs were hardest hit.

M. BESSON replied that the advantages referred to were general advantages—that was to say, all the advantages which could be made available for the native population, and not specially those resulting from a reduction in taxation.

M. RAPPARD maintained his view that sacrifices had been demanded of the masses. He did not, however, complain, because he did not think they had been subjected to excessive demands. He observed, moreover, that the abolition or reduction of various duties had been offset by taxes levied on the floating population. That arrangement was perfectly fair and should offer considerable advantages from an administrative and statistical point of view.

M. BESSON said that there were also advantages from the point of view of health control.

M. RAPPARD said that the table on page 19 of the report showed that the prosperity which characterised the years 1934, 1935 and 1936 was reflected in an increase in the yield of indirect taxes ; he imagined that, after a certain time-lag, the direct taxes would show the same tendency as the indirect taxes.

He wished to know why the estimates of expenditure relating to claims outstanding (page 21 of the report) had been increased by some 500,000 francs.

M. BESSON noted the question, but was unable to reply at the moment.

M. RAPPARD pointed out that the comparative table on page 22 of the report showed a surplus of revenue over expenditure of more than three million francs. That was a point which might well be dealt with in any reply to the question on claims outstanding.

The report spoke again and again (see, in particular, page 31) of material acquired by means of " *prestations* ". What did that mean ?

M. BESSON replied that they were deliveries in kind by Germany, which had been sent from France to Togoland.

M. RAPPARD was surprised that such " *prestations* " should exist at the time mentioned. He observed that the item 1,000,000 francs for miscellaneous expenditure (page 32 of the report) seemed rather high.

M. BESSON explained that provision was made for this miscellaneous expenditure in Chapters 14 and 15 (page 33 of the report). The sums in question were used, for the most part, to cover the cost of public festivities, cablegrams, the printing of the report to the League of Nations, etc.

Lord HAILEY thought there was a mistake in the table on page 18 of the report relating to the yield of direct taxation for the year 1937. The figure for redemption of contributions (*Rachat des prestations*) in 1937 seemed to be short by two million francs, and this sum had found its way into the total for the poll tax, which was accordingly two million francs above the normal.

M. BESSON explained that the reduction in the figure was a result of the policy of substituting tax increases for contributions in kind. The returns from the native poll tax had increased by more than three and a half million francs.

In reply to a further observation by Lord Hailey, he added that the mandatory Government was in no way opposed to the policy of redemption of contributions in kind. It would be a retrograde step to reverse that policy. But the contributions themselves were being replaced by lump-sum additions to the poll tax. The policy of the mandatory Power in the matter would be apparent from Articles 4 and 5 of Decree No. 29, of January 13th, 1937 (page 166 of the report).

M. GIRAUD observed (page 59 of the report) that in 1937 the receipts of the lighthouse had amounted to roughly 134,000 francs, against an expenditure of 43,000 francs. What was the origin of these relatively large receipts obtained by the lighthouse ?

M. BESSON replied that they represented a tax paid by vessels in addition to harbour dues.

#### ECONOMIC SITUATION : IMPORTS AND EXPORTS : SAVINGS BANK.

M. GIRAUD pointed out that the economic situation of colonial territories, especially in Africa, depended entirely upon the harvest. Cultivation in Togoland in 1937 had been affected by unfavourable atmospheric conditions (page 65 of the report). Generally speaking, the production of foodstuffs had nevertheless been satisfactory (page 66 of the report). Among exportable commodities, however, oil products, which were the chief wealth of the territory, had fallen by 35 % by weight (page 66 of the report) ; while cocoa (of which it must not be forgotten that four-fifths came, in fact, from Togoland under British mandate) had diminished by about a fifth. Substantial progress had, however, been made in the matter of coffee, maize, manioc flour and cotton. Commercial activity, on the basis of value, only appeared to have been greater than in 1936, but the report showed that this increase was only apparent, since the tonnage of imported goods and of exported products had both declined by 8 % (page 84 of the report). While the railways showed a slight decline in goods traffic, there had been a sharp increase in passenger traffic (page 57 of the report). The Savings Bank was only in its initial stage, but was making progress both in respect of the number of depositors and the total amount of the deposits (page 59 of the report). On the whole, therefore, the economic position of the territory appeared, in the circumstances, to be favourable.

According to the report (page 83), although in 1937 imports had exceeded exports by 1,253,500 francs, it had to be remembered that the statistical values given to exports were average values fixed twice a year, and that they could not always correspond to the exact prices of the products in question.

It appeared, therefore, that statistical values could quite well differ widely from real exports values. Were there not other reasons of an economic character which might explain the slight deficit in the commercial balance, and which would justify the expectation that an excess of imports would again occur in the present year ?

M. BESSON replied that there were no other reasons.

M. GIRAUD drew attention to the statement on page 85 of the report to the effect that "As usual, England is the first supplier of the territory. The predominating position which she occupies in our import trade, in view of her production, which is adapted to the tastes and needs of the consumers, was improved this year by the rise in the pound sterling".

Was it not to be expected, on the contrary, that the rise in sterling should cause a reduction in British sales to the territory ?

M. BESSON explained that the mandatory Administration had difficulty in inducing French manufacturers to produce articles adapted to the tastes and needs of Togoland consumers. It was therefore necessary to apply to England for such articles ; in view of the rise in sterling, supplies from England occupied an important position in the trade of the territory.

#### CUSTOMS AGREEMENT BETWEEN TOGOLAND AND DAHOMEY.

M. GIRAUD recalled that, during the thirty-third session, in 1937,<sup>1</sup> the accredited representative had been asked whether the new Customs agreements between Dahomey and Togoland had worked in favour of the latter territory. The present report (page 137)

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 111.



replied to this question with the statement that : " It was impossible, in the first year in which the system arising out of the denunciation of the Convention of June 14th, 1898, was applied in practice, to give definite indications as to the respective advantages of the former and present system."

Was the accredited representative in a position to give the Commission further information in the light of results obtained up to the present ?

M. BESSON replied that the information available at present indicated that the Customs arrangement had not appreciably affected the revenue of the territory.

#### NATIVE PROVIDENT SOCIETIES.

In reply to a question by M. Giraud regarding the valuable results obtained by the native provident societies, M. BESSON explained the special interest attaching to these societies as a means of developing the export of Togoland produce to France. These societies should make it possible to bring producers and purchasers into touch, and to facilitate the marketing of products by improvements in make-up.

#### JUDICIAL ORGANISATION : STUDY BY M. THÉBAULT OF THE JURIDICAL CUSTOMS OF THE TRIBES OF TOGOLAND.

M. THÉBAULT, at the Chairman's request, made a statement on native custom in Togoland.

Native custom played a very great part in Togoland, as in all colonies, since it was the basis of the current judicial system. The mandatory Power, in doing justice to the natives, applied the customary law, both in criminal and civil matters. So far as civil matters, at any rate, were concerned, any other rule of law was out of the question. Marriages and land tenure, in particular, were determined by custom.

As regards land tenure, for instance, the laws in force were only valid subject to the rules of native law. Decree No. 49316, of July 24th, 1906, organising the land-tenure system in the colonies and territories coming under the Governor-General of French West Africa, contained the following provision (Article 19) :

" The provisions of the Civil Code and of French laws are applicable in general to registered landed property and to the rights *in rem* relating thereto, and, in particular, if such property and rights *in rem* are in the possession of natives, the rules of local customary law relating to the status of persons and the transfer of successions are applicable in as far as such provisions and rules are not contrary to the present decree, subject to the following modifications."

This decree was made applicable to Togoland by a Decree of December 23rd, 1922, which took account of the position created by German legislation from 1894 to 1914. The Germans had created a land system in Togoland which was satisfactory and merely required to be brought into line with French legislation by the mandatory Power.

M. Thébault was aware that certain apprehensions had been expressed in the previous year in the Mandates Commission<sup>1</sup> regarding dispossessions to which the natives might be subjected by foreclosures of mortgages.

He was able to give the most complete assurances on that point. During the five years which he had spent in Togoland in the midst of the economic depression, only one native expropriation had occurred. The Europeans did not try to acquire land in Togoland. When a cocoa-nut plantation of thirty hectares, divided into several lots, was put up for sale, not a single European appeared at the sale and the lots were acquired solely by natives. The system of mortgage guarantees was excellent from the point of view of the natives. In practice, what happened was as follows. An advanced native—that was to say, a man who had received a certain education—would, on leaving school, obtain experience for ten years in a business firm, after which he would desire to set up on his own account. Not having any capital of his own, he would apply to the director of a trading station for a credit of, say, 50,000 francs in goods, against a guarantee given by his father on his landed property to the value of say, 10,000 to 15,000 francs. The credit would enable the young man to set up in business, contribute to the commercial development of the country and earn a good living for himself.

M. Thébault then explained the way in which the customary law of Togoland had been studied by the mandatory Administration. The study of customary law in the Territory had encountered extreme difficulty. Togoland was a net-work of tribes speaking no less than twenty-five languages differing greatly from each other. This state of things was a consequence of migratory movements coming from North, South, East and West, which crossed one another in the territory. In an area no larger than the zone, there might be seven to nine different races. There were therefore a large number of small tribes in Togoland under small chieftains

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 118.

with no education, tradition or culture. In view of that position, the Germans had never attempted to draw up a statement of general customary law; and one of their most distinguished jurists had established the customary law for each separate zone instead.

M. Thébault himself had been instructed by the French Administration to study the customary laws of Togoland. He had taken account of the work done by his German predecessors, though the conclusions of the latter should not, for a variety of reasons, be accepted without further enquiry. A general study presented great difficulties; and he would certainly never have undertaken it, if the Mandates Commission had not expressed a desire for a digest of the customary law of Togoland. It was indeed no easy task to obtain information—much of it more or less inconsistent—from so many tribes and to collate the information thus obtained, especially when the work had to be done rapidly and in addition to the ordinary work of the official to whom it was entrusted. The study which he now submitted was incomplete, only one of the three parts of which it was to consist having been finished.

M. Thébault's method had been to travel widely in the country in a motor-car and make his enquiries on an ethnical basis. He had asked the headmen of the village or canton to collect their notables and the chief authority on customary law of the tribe. The latter was generally an old man acquainted with the traditions, to whom the chief turned, when necessary, during a trial to know how custom dealt with any particular point. He had then called together the advanced people in the tribe, including the native teachers, whose assistance (M. Thébault must say) had been invaluable. He had questioned the gathering of advanced people according to a pre-established and uniform plan. After that, he had tried to get five or six persons, differing from each other as widely as possible, to write what they knew of the customary law. Sometimes he would leave a detailed questionnaire with the chief, who had it filled in.

In short, by one means or another, he had procured documents on customary law of a total weight of not less than 300 kilogrammes. He had examined those papers and checked and cross-checked them. He had consulted the white missionaries and the native missionaries of all denominations; and to them also he owed sincere thanks.

Having thus collected a certain amount of information, M. Thébault had endeavoured to collate it. This involved the greatest difficulty; for the native had no conception of synthesis, and was quite unable to express a general idea. A rule could only be elicited by putting concrete cases to the natives. When the conclusions had been drawn, they were submitted to the advanced natives for confirmation.

Once the synthesis had been established, the chief Administrator had sent it to all the zones. The Administrators had studied it, convoked the chiefs and notables, and sent it back to M. Thébault with their notes. At Lomé, the discussions raised by the text had lasted no less than two days. Finally, the work, corrected in this manner and revised once more by himself, was submitted to the Togoland Commission for the Study of Native Customs, which included highly qualified European and native members. The Commission had suggested certain changes in detail, and then approved the work in its present form.

The CHAIRMAN thanked M. Thébault for his extremely interesting statement of the native customs of the mandated territory.

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### THIRTEENTH MEETING.

*Held on Thursday, June 16th, 1938, at 10 a.m.*

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#### **Togoland under French Mandate : Examination of the Annual Report for 1937 (continuation).**

M. Besson and M. Thébault came to the table of the Commission.

JUDICIAL ORGANISATION (*continuation*) : STUDY BY M. THÉBAULT OF THE JURIDICAL CUSTOMS OF THE TRIBES IN TOGOLAND (*continuation*) : RÔLE OF THE ADVANCED NATIVES AND THEIR POSITION IN THE TRIBE : SITUATION OF WOMEN.

The CHAIRMAN congratulated M. Thébault on his interesting statement of the previous day. He hoped that the work mentioned might be published so that the Administrations of other colonial territories might be able to benefit from it. The study of native customs, the hold they still had on the population, the desirability of preserving them and the extent to which they might have to be modified aroused keen interest in all colonial countries.

M. BESSON thanked the Chairman. He would certainly point out to the Ministry for the Colonies and the Government-General of French West Africa the interest taken by the Commission in the work, with a view to asking that steps should be taken to promote its publication.

M. VAN ASBECK, having associated himself with the Chairman's complimentary references to M. Thébault, said he wished to ask a few additional questions, in order to be clear about the position. Had M. Thébault, in the course of his work, encountered the same difficulties as others working in the same field in the Netherlands Indies—namely, that of ridding themselves of legal concepts derived from the Western system which they brought with them to the colonies? Native law should not be considered as a system existing independently of the community, but as a body of rules within which the life of the native society manifested itself directly. The difficulty was an entirely practical one. There should be no attempt, therefore, to apply Western systems or legal terms to native customary law. For instance, had the distinction between *jus in rem* and *jus in personam*, which did not exist in native law in the Indies, cropped up in connection with the work in Togoland, and also the distinction, which was so clearly drawn in the West, between civil and criminal law?

Then there was the question of the sanctions applicable to offences and infringements of native law. Such sanctions were, for the most part, religious or "magical" in character. The penal system of the West, with punishments such as imprisonment, appeared to be unsuitable for inculcating in the native a respect for the rules he broke. To understand native laws regarding land tenure in the Indies, for instance, it was necessary to remember that the native practice was not based on the notion of private property as in Western codes, but on the idea that the right of disposal was vested in the native community. What was the position in Togoland?

In short, he wished to know whether difficulties of the kind he had described had been met with in the course of the work begun in French Togoland. Such difficulties were, so to speak, racial in character; they were inherent in the legal training of Europeans, which was based almost entirely on Roman law and which it was necessary to discard completely if native law were to be properly understood.

M. THÉBAULT said that such difficulties scarcely existed in Togoland. Legal questions should not, in his view, be separated from a general ethnographical study of the tribes. The juridical life of a tribe was only one of the aspects of its life as a whole. For the past four years, he had been studying, not only the tribes' legal customs, but their mode of existence, religious customs, daily life, etc. In addressing the Commission, he had confined himself to legal customs, because that was the only aspect of the problem with which it was concerned; but he had not disregarded the other questions. He agreed with M. van Asbeck that the principles taught at the Ecole de Droit, Roman Law conceptions of property, etc., must be set aside. M. Thébault was not acquainted with customary law in the Netherlands Indies; but in Togoland there was a clear distinction between actual property and possession. The latter was called not possession but enjoyment, and such enjoyment was understood to be surrounded by certain legal guarantees.

As regards the criminal system in Togoland, the commonest conception was obviously that of civil reparation for offences committed. For instance, if a man killed another, the criminal's family would owe the victim's family pecuniary reparation, and even, in the majority of cases, reparation in the form of a human being. Frequently, the murderer's family was bound to give a girl in marriage to the victim's family.

If one were forewarned, it was fairly easy to discard the theoretical ideas which were taught in the law schools, and to arrive at an understanding of native customs. Further, there were certain more highly developed natives, who formed a kind of link between the native mentality and that of Europeans. Such persons were, of course, in touch with both European and native circles, and thus collaborated effectively with the mandatory Power.

M. VAN ASBECK explained that, in his opinion, the difficulty lay, not in native customary law as a whole, but in the mentality of the Europeans working in the colonies.

Count DE PENHA GARCIA had been very glad to hear M. Thébault say that, if a sound policy for the development of the native population were to be followed, it was essential to have, as it were, a foot in either camp. The policy of assimilation was to-day almost universally condemned; it was regarded as valuable in only a small number of cases. However, a policy of quasi-isolation would be just as bad. It must be realised that natives had their own souls, lives and tradition; but the problem was complicated by the fact that there were also white populations in the colonies. Relations would have to be based on a compromise between two conceptions. In certain cases, where there were no white populations, but only a few administrators and officials, it was possible to go far as regards respect for and preservation of tribal customs. When, however, the white element began to develop in the territories in question, it would be a mistake to ignore the fact; a policy aimed at obtaining concessions from both sides would then be necessary.

M. THÉBAULT explained that the expression he had used when referring to more highly developed natives who had access to both European and native circles simply meant that there were natives who, owing to their development and education, formed a link between the natives and the Europeans. He had often been enabled to understand some act, or penetrate the native mind in connection with some given matter, by the help of a superior type of native who, through his antecedents and his atavism, was particularly well acquainted with native customs.

COUNT DE PENHA GARCIA asked whether the mandatory administration could not, by placing half-castes among Europeans, find useful intermediaries between itself and the native population of the kind mentioned by M. Thébault.

M. BESSON replied that that was a different problem. There might be half-castes in villages situated very far from the coast who were quite uncultured, while "hundred per cent" natives might be extremely educated. Some of the latter had risen to important posts, whereas some of the uncultured half-castes would always remain too firmly rooted in native life to be able to serve as links.

M. VAN ASBECK said that, while M. Thébault had spoken of the difficulties of really understanding customary law and of the assistance which advanced natives could give to the authorities, Count de Penha Garcia was thinking of a mixed society of whites and natives, which was an entirely different question.

M. van Asbeck desired to know whether natives could be found in the territory who were capable of taking law courses in France and whether the mandatory Power encouraged such natives to go to France for that purpose.

M. THÉBAULT said that he was very glad that M. van Asbeck had made that remark, as it gave him an opportunity of speaking in more detail of the advanced natives. To give one instance, he knew a "hundred per cent" native in Togoland who had obtained the degree of doctor of medicine at a German university and had married a Parisian. He was remarkably gifted and one of M. Thébault's best friends. When he was in any difficulty or did not understand some point of native custom, he used to go to that young man, who, of course, always did everything in his power to assist him. There were three young Togolese in Paris at the present time: one of them would be presenting his thesis for the degree of Doctor of Law next November, the second was sitting for his licentiate to-day and the third had obtained it some months ago. He had just returned to Togoland, where he was to be attached to the Public Prosecutor's Office at the court of Lomé.

Obviously, young people who followed the courses at faculties of French universities, who passed the same examinations and obtained the same diplomas as French people and who, apart from that, were distinguished from the point of view of general culture and level of intelligence, were first-class instruments for the representatives of the mandatory Power in Togoland. Moreover, they placed their services at the disposal of the French officials and would talk quite openly when they had their confidence and felt that they were dealing with friends and not with masters.

M. Thébault would give a few examples of very highly developed natives. In 1933, a police and criminal investigation organisation had been set up in Togoland. This organisation had been slightly altered this year, but was still entrusted with the police work of the whole territory. The whole police work of Togoland—and that fact showed how peaceful the country was—was carried out by four officials, one of whom was a native of the country, who had taken French nationality. When those officials were recruited, the young native in question had applied and passed first. He was consequently occupying an extremely important post. Another native was head clerk in the Public Works Office and, as everyone was aware, to have charge of the accounts of the territory could be no trifling matter. Another was a post-master, and hence also in a very responsible position, as millions of money passed through his hands in the course of a year.

A European school had been founded at Lomé, which could take forty to fifty children. It was under the management of a European mistress, but her assistant was a black schoolmaster. M. Thébault's own children had been taught by a black schoolmaster, whose treatment of them had been unexceptionable. Finally, several assistant doctors were natives, and had always carried out their duties in a fully satisfactory manner.

He had mentioned those details in order to show that, not only had the Togolese access to posts usually reserved for natives, but they could also be entrusted with duties which were normally carried out by Frenchmen.

M. RAPPARD asked if the people referred to in the cases quoted by M. Thébault were pure-blooded blacks.

M. THÉBAULT replied in the affirmative. Apart from the clerk he had mentioned, who was a half-caste, all the other examples he had quoted referred to "hundred per cent" blacks.

COUNT DE PENHA GARCIA asked if the advanced natives were still living under the ordinary native regime.

M. THÉBAULT replied that some of them had acquired French nationality. Those continued to lead their native life, at least in part. True, they wore European clothes; they spoke French excellently and very often two or three languages. They ate the same food and lived in the same sort of houses as French people and had given up nearly all the fetishist practices, as most of them were Catholics or Protestants. Nevertheless, they were still obliged to follow certain tribal customs.

COUNT DE PENHA GARCIA asked whether the advanced natives remained under the authority of the chief of the tribe and whether they continued to participate in the life of their community.

M. THÉBAULT admitted that they gradually disassociated themselves from their milieu, but said that they nevertheless participated in the important decisions of the tribe and, in principle, recognised the collective rule of the community. The conception of the family in its broader sense was gradually giving way to that of the family in the limited sense of the term. Nevertheless, the chief remained the counsellor and guide, and the natives, even when advanced, continued to accord him respect. For instance, when they desired to marry their daughters, they did not, strictly speaking, ask his consent, but approached him on the subject as a matter of courtesy. In fact, they paid him much the same respect as was paid to grandfathers in European families.

M. RAPPARD quite understood that replies to questions concerning the mode of life of the natives might be more or less vague as the case required, but there was one field in which replies must be quite definite, and that was the legal field. Under what system of law did advanced natives live ?

M. THÉBAULT replied that when a native was naturalised, he was subject to French law ; otherwise, he was amenable to the native court, whatever his degree of development.

The CHAIRMAN asked whether M. Thébault was of opinion that an advanced native was likely to transmit his stage of development to his descendants ; in other words, did he think that a new social class was arising and would be able to preserve its individuality ?

He himself, had some doubts in regards to married women. It seemed that, in those countries, women could not attain the same degree of development. Everyone knew the importance of the part played by the mother of a family, and if she were not so highly developed as her husband, how could her husband's standard be passed on to the children ?

M. THÉBAULT said that the Chairman had touched upon one of the most serious problems which arose. All the advanced natives endeavoured to perpetuate their education in their families. They wanted their children to have degrees and, if possible, higher ones than their own, and there was no doubt that their great difficulty was to find wives having their own level of education.

M. Thébault had met several people at Geneva who were interested in women's questions and had, in fact, mentioned that problem, which was, in his opinion, one of the most difficult of all. There were very few highly developed women in the territory. Moreover, they did not hold high positions, nor were they usually possessed of very much education. Nevertheless, Catholic Sisters and Protestant ladies were doing their utmost to educate and train the girls. At Anecho, for instance, the missionary Sisters had founded a boarding-school for girls ; but, generally speaking, the number of boys attending the schools was greater than that of the girls.

M. BESSON desired to add something to the explanations which had been given. An important wedding had recently taken place in the Southern territories of Algeria between the daughter of a very well-known Arab chief and a young Arab. The young man was an agricultural expert and was very advanced and very French, while the girl, who came of a very good family, was a licenciate of science. There were two wedding ceremonies : A European ceremony, at which the girl was not veiled, and an Arab wedding, at which she had resumed her veils and at which the native customs were observed.

M. Besson thought that that was the type of family which would be founded by highly developed natives, even in Togoland.

Count DE PENHA GARCIA said that it was not possible to lay down any general rule ; account must be taken of the development and state of the particular native community.

In the case of a fairly highly developed community, it was possible to arrive at certain general conclusions, but those conclusions did not apply to more backward communities. As regards the situation of women, it might be assumed that, in areas where there were schools, the problem of the social development of girls would be easier to solve than in districts where no such institutions for girls existed.

M. VAN ASBECK recalled what had been said on the previous day regarding the importance of the punishment of criminal offences against native law, as opposed to the compensation system.

M. THÉBAULT said that, while referring to compensation, he had also mentioned the existence of sanctions such as imprisonment, fines and, formerly, even the death penalty. The severest form of penalty, however, was that provided by the compensation system.

M. VAN ASBECK thought that imprisonment was, from the psychological point of view, the worst kind of punishment for backward natives. Had the mandatory Power already considered returning, to a greater extent than had hitherto been the case, to native procedure for the punishment of crime, as it had already done in the case of civil disputes by means of conciliation (*i.e.*, compensation and fines as penalties for civil offences), and avoiding imprisonment as far as possible ?

M. THÉBAULT said that, in any case, offences could not be allowed to go unpunished, and it was not enough to say that compensation would be an adequate penalty, especially as compensation now existed only among completely primitive tribes and was constantly losing ground among those that were more enlightened. Although compensation existed in ancient Germanic law and very ancient French law, it no longer found a place in any modern civilisation. It was, moreover, a completely ineffective penalty.

M. VAN ASBECK hoped that, in future reports, a yearly account would be given of the developments connected with this most important colonial problem.

M. BESSON willingly took note of the request, but did not see how information could be furnished yearly concerning a process of evolution which was not taking place so rapidly. Perhaps it would be sufficient to indicate special developments from time to time, and avoid tiresome repetition.

#### POLICE.

M. SAKENOBE noted (page 47 of the report) that the general organisation of the police forces had not been changed. The strength was practically the same as in previous years. At the end of 1937, however, the detachment of militia stationed at Anecho had been transferred to Lomé with the rest of the company. He believed that the situation at Anecho had been somewhat precarious for some years past, and that was why it had been necessary to station a detachment of militia there. Had the position improved ?

M. BESSON replied that there had been no trouble at Anecho. The military authorities had merely considered that the whole of the militia company should be together. The means of transport available would make it possible to move it easily, if necessary.

M. SAKENOBE drew attention to Decree No. 444 concerning the formation and organisation of police headquarters (page 145 of the report). He would like to know the character of the change made in the police organisation. The various sections were already in existence. Had there been special reasons—of economy, for instance—for grouping all the police under the same directing body and in a single department ?

M. BESSON replied that the measure had been intended merely to secure better co-ordination. The directing body was in any case not very large, as it consisted of only four officials.

#### EVOLUTION AND METHOD OF APPOINTMENT OF THE NATIVE CHIEFS : RELATIONS BETWEEN THE CHIEFS AND FRENCH OFFICIALS.

The CHAIRMAN asked M. Thébault to be good enough to inform the Commission of the results of his enquiries concerning the evolution of the native chiefs.

M. THÉBAULT said he would like to speak on that subject as a man who had lived for nearly five years among the natives and had a deep affection for them. He would therefore ask the Commission to regard what he was going to say as reflecting, not the opinion of an official of the mandatory Power, but that of a friend of the natives.

In Togoland, all the chiefs of cantons and villages were, without exception, ethnical chiefs who were freely chosen by the natives, in accordance with extremely hard-and-fast customary rules, from which the mandatory Power had not caused any departure. The chiefs were invested in accordance with traditional forms, were crowned with the customary ceremonies and were then granted by the mandatory Power a part of its own authority, surrounded by a certain amount of prestige and treated with a measure of special consideration. Moreover, they were all members of the Managing Board of the Welfare Society, members or assessors of the native courts, members of the Councils of Notables and often members of the Grand Economic and Financial Councils.

When the chief of a tribe died, his throne remained vacant for one or two years ; during that period, the authority of the chief was vested in a kind of delegate called " the holder of the royal baton ". At the end of the period fixed by custom, the elders and notables of the tribe held several meetings which were, of course, attended by a representative of the mandatory Power, as the authorities were naturally unable to allow such meetings, which might have some political importance, to be held without reference to them ; but the Zone Commandant, who represented the mandatory Power, usually did not intervene. He did so only if, for instance, he suspected that intrigues were being carried on for the purpose of unfairly ousting a candidate. A chief was chosen, who was then enthroned, the enthronement taking place in accordance with local custom.

Some time ago, the chief of a very important tribe in Togoland—the Minas—was replaced. A young man of 35 or 36 years was chosen, who spoke French, English, German and two or

three native languages fluently, which showed how advanced he was. When he was chosen, he had to submit to the fetish ceremony, which consisted, more particularly, in being sprinkled with the blood of a ram, sacrificed by the fetishist high-priest. Although so advanced, the young man submitted to the ceremony. The mandatory Power was, of course, represented. It was represented at all ceremonies of that nature, and the authorities often sent members of the militia to add brilliance to the ceremonies, which were usually followed by a banquet. On the strength of that enthronement, the Governor issued an Order appointing the chief in question to be, for example, chief of a canton or of a village or member of this or that Council, etc.

M. Thébault mentioned three cases in point and added that all the chiefs entertained the most cordial and even affectionate relations with the representatives of the mandatory Power : indeed, French officials, including M. Thébault himself, were in the habit of inviting them to meals and accepting their invitations.

Count de Penha Garcia had asked the day before how it had been possible to ascertain that the natives of Togoland had been glad that the Commissioner of the Republic had been reinstated in Togoland.<sup>1</sup> There had been no public demonstration, but a number of native notables had called on the representatives of the mandatory Power in order to express their satisfaction, and the French officials preferred those personal expressions of sympathy to public demonstrations.

M. Thébault desired to say once more that the French authorities did really apply their principle of respect for native traditions, while at the same time entertaining relations of confidence and friendship with the population. The members of the Commission had probably read in the report that there were two Franco-Togolese clubs. Some Europeans might perhaps be rather surprised at that, but those clubs constituted a very effective method of collaboration between the representatives of the mandatory Power and the natives. It was quite a common thing to see native notables and some high official of the colony sitting at the same bridge-table about 6 o'clock in the evening.

#### NATIVE MIGRATION TO NEIGHBOURING TERRITORIES.

Lord HAILEY said that the report contained two or three allusions (page 109 of the report) to the emigration of large numbers of natives to the neighbouring British territory. Was that movement over, and how could it be explained ?

M. BESSON replied that the reason was not far to seek : the movement was mainly due to the rise in the pound sterling. There was no reason but the economic one.

Lord HAILEY asked if the authorities could not, themselves, organise a system of cultivation which would allow the natives to support themselves without being obliged to go to British territory to earn money.

M. BESSON replied that the number of cases of emigration was not considerable ; it was confined to a few natives, who went to British territory to do seasonal work and then returned to Togoland under French mandate.

#### LABOUR.

The CHAIRMAN requested the accredited representative to excuse the absence of Mr. Weaver, who was at present detained at the International Labour Conference. Mr. Weaver had informed him, however, that he had nothing to ask regarding labour questions.

Lord HAILEY noted that there was now a minimum wage for natives (page 109 of the report) and asked if those were the wages indicated on page 12 of the report.

M. BESSON replied in the affirmative. Table No. 3 on page 110 of the report gave the scale of wages, which had gone up, in the case of labourers, from a minimum of 30 francs in 1934 to from 120 to 300 francs in 1937. According to information which had reached him, wages were still tending to rise.

Lord HAILEY said that the table in question contained only general indications, and he would like to know if there was a compulsory minimum wage.

M. BESSON said that, on page 109 of the report, it was stated that : " the minimum wages shown in table No. 3 were given only at the beginning of contracts, etc. . . ." The minimum wage was the first wage paid.

Lord HAILEY asked if those minimum wages had been fixed by " arrêté ".

M. BESSON said that, in such cases, Orders were always issued by the Governor.

<sup>1</sup> See page 110.

Lord HAILEY said that that Order did not appear in the present report.

M. BESSON replied that it would be reproduced in the next report.

Lord HAILEY also noted (page 109 of the report) that a Committee for fixing minimum wages had again been appointed for 1938. That was a point of great interest to the Mandates Commission. How did the Committee function? He believed that Togoland under French mandate was the only mandated territory where such a system was in force.

M. BESSON said that information on the subject would be given in the next reports.

Lord HAILEY said that, during the thirty-third session,<sup>1</sup> the accredited representative had stated that all the labour regulations were being revised. Was that work of revision finished or were fresh regulations in force?

M. BESSON replied in the affirmative. The 1938 report would contain very full information on developments in social reform.

Lord HAILEY asked whether, in these developments, the minimum wage included food or not. The report for 1937 contained no information on that essential point.

M. BESSON said that the minimum wage never included food.

Lord HAILEY mentioned that it was stated on page 228 of the report that, by Administrative Decree No. 559, the Geneva Convention on Forced or Compulsory Labour had been put into force in Togoland. Had the reservations made in 1937 by France in her own case been retained in regard to her accession to that Convention in respect of the mandated territory?

M. BESSON replied in the affirmative.

Lord HAILEY said that, from the Commission's point of view, the important point was whether the pressure applied to natives to increase the cultivation of certain products as an "educational" process was to be regarded as compulsory labour.

M. BESSON did not desire to reopen the lengthy debate on forced and compulsory labour. The reservations made by the French Government referred to "prestations", military recruiting (a question which did not arise in the case of mandated territory) and the cultivation of certain cereals for educational and not economic purposes.

#### PROVIDENT SOCIETIES.

Lord HAILEY noted that the report contained, on page 66 *et seq.*, very complete information on the work of the "provident societies". To what extent was the participation of the natives in those societies voluntary or compulsory? Administrative Decree No. 552 (page 195 of the report) showed that the contributions "were recovered as if they were 'centimes additionnels' to the *per capita* tax".

M. BESSON said participation was voluntary. The setting-up of native provident societies had been one of the happiest steps taken on behalf of the natives, who now regarded them as an indispensable factor in their economic life.

Lord HAILEY entirely agreed that the societies did good work; it was only necessary to see them on the spot to realise the value of the system. The voluntary nature or otherwise of the participation of the natives in the mandated territory was, however, frequently discussed in works dealing with co-operation, and it was on that point that he would like information. In particular, he would like to know the scope of Article 2 of the decree in question, which referred to cultivators or stock-raisers "faisant obligatoirement partie des sociétés indigènes de prévoyance" (who were compulsory members of native provident societies) (page 194 of the report).

M. BESSON replied that Europeans and naturalised persons could not be admitted to the provident societies.

M. RAPPARD understood that the natives were compelled to be members of the societies.

M. GIRAUD said that in West Africa native farmers were compelled to be members of those societies.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 114.



M. RAPPARD said that, in that case, participation was compulsory and not voluntary.

M. BESSON replied that participation was only compulsory for one category of the population—namely, native planters, who, moreover, derived great benefit from the societies.

Lord HAILEY said he had raised the question only because it was discussed by people interested in the theory of co-operation. He, himself, held it to be of little importance, at this particular stage, whether participation in the societies was compulsory or optional. From Articles 2 and 11 of the decree in respect of subscriptions, it was to be inferred, not only that membership was compulsory, but that the societies were State organisations. The chiefs and the representatives of the persons concerned were called upon to discuss the budget of the societies, but the actual execution of the budget was entirely in the hands of the Administration.

M. BESSON pointed out that it was not unimportant to retain the expression “co-operative societies”, since it was in accordance with that idea that the societies could purchase grain, seed, agricultural machinery, etc., co-operatively and individually. That was the meaning to be given to the word “co-operative”.

Lord HAILEY repeated that he did not contest the value of the societies, but they should be described as joint purchasing societies rather than as “co-operative”.

M. RAPPARD pointed out that the decree did not refer to “co-operative societies”, but only to provident societies.

M. BESSON said they were provident and mutual loan societies.

M. GIRAUD added that their aim was, in particular, to teach co-operation to the natives. That was really an educational work.

#### MISSIONS.

M. PALACIOS recalled that he had asked last year<sup>1</sup> what grants had been made to the various missions in 1936. The accredited representative had replied that he would furnish a complete list next year. He had added that, in any case, he could inform the Commission that the grants, which had been reduced during the depression, had recently been increased.

Information regarding this question was, in fact, supplied in the present report—Section I, Chapter II (Public Finance, Grants charged against the 1937 Credits) (page 36 of the report). The report also stated (page 107) that the Administration was on excellent terms with the missions and gave them valuable support in their work of social assistance. Lastly, the educational activities of the missions were described in the tables on page 114 *et seq.* of the report and were, M. Palacios thought, quite satisfactory.

He would be grateful, however, if this information could be supplemented by a brief general survey of the work done by the missions and their future prospects.

M. THÉBAULT said the Catholic and Protestant missions enjoyed great favour with the mandatory Power, which maintained a very obvious neutrality towards them, and did not favour one more than the other. The two missions had complete freedom of action, and almost all the missionaries were, in fact, exempt from tax. Moreover, land was granted on exceptional conditions for building their schools, chapels, etc. In short, the most cordial relations had never ceased to exist between the representatives of the Republic and the heads of the missions, who, moreover, got on very well together.

M. PALACIOS asked what were the relations between the missions and the tribes, in particular, from the point of view of respect for native customs.

M. THÉBAULT said that this problem, which related to Catholic natives and the law applicable to them, was a very delicate one. The question had not yet been settled, but was being studied in all the French colonies. He was sure that the conversion of a native to Christianity—Protestantism or Catholicism—should entail a certain change in the customary rules applicable to him, but no law as yet existed confirming that position. The mandatory Power was doing its best, and endeavoured to solve each particular case on grounds of equity, while taking into account the interests of the parties concerned. He wished to state that disputes in that respect were not very frequent in Togoland, but the problem would have to be solved once for all.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 114.

COUNT DE PENHA GARCIA asked whether the missions established native Christian villages, as was done in various other territories.

M. THÉBAULT replied in the negative.

#### EDUCATION.

The CHAIRMAN, in Mlle. Dannevig's absence, and referring to the reply given to a question she had asked during the thirty-third session of the Commission,<sup>1</sup> recalled that the accredited representative had said that the Domestic Economy School at Anecho had doubtless had to be closed, and that information would be furnished in the next report.

Particulars were in fact given on pages 137 and 138 of the report for 1937. It appeared that the headmistress of the said school having retired in 1935, the head of the Anccho District School had been made responsible for both schools and had divided the girls among the forms for boys. It was also said that those arrangements had not had the results anticipated, and that the school was to be reopened in 1937. What were the difficulties that had arisen?

M. BESSON, while unable to give details, was under the impression that the position was of a temporary nature and would no doubt be settled in the following year, when a new headmistress would be appointed. There had certainly been no serious difficulties.

The CHAIRMAN, speaking on behalf of Mlle. Dannevig, recalled that, in 1937, the accredited representative had promised full information in the next report as to the number of young Togolandese who had been sent to Dahomey to attend the Porto Novo school for training as assistants.<sup>1</sup>

The 1937 report contained information on the subject (page 112): the object of the Porto Novo school was to provide theoretical and practical training for farmers who would later take charge of industrial undertakings, and also for any candidates for posts as local officers in the agricultural service. The number of pupils, all of whom had scholarships, seemed to be increasing since the opening of the Togoland section of the school. What possibilities had young Togolandese holding the school certificate of finding work?

M. BESSON replied that work was found for nearly all the young people who left the school; no difficulty was experienced.

The CHAIRMAN asked whether any of these young people were without posts.

M. BESSON replied in the negative.

The CHAIRMAN pointed out, again, on behalf of Mlle. Dannevig, that an interesting step had been taken in the matter of education; popular evening classes had been begun on February 16th, 1937 (page 112 of the report). They seemed to have had increasing success, and classes had already been opened here and there throughout the territory. According to the report (page 113), "these classes were remedying the effects of the age-limits as far as possible". It should be noted that the maximum age of admission to the schools had been reduced by one year by an Order, dated February 4th, 1937. The report added that nothing more could be done in that direction.

M. BESSON said that he had recently received supplementary information showing that the evening classes had met with considerable success among the natives and that there was a demand for more. They seemed to afford a very important means of spreading education.

M. SAKENOBE understood there were Moslems in the northern districts. Had they schools of their own? If so, he would be glad to have particulars in the next report.

M. BESSON replied that there were no special schools for Moslems; the same system was in force throughout the territory.

M. GIRAUD asked whether there were no Koran schools.

M. THÉBAULT explained that there were no real Moslems in Togoland. He, himself, had never come across a single Koran in the territory.

M. GIRAUD said that, nevertheless, there were Koran schools for the Islamised population in the Cameroons, under the French mandate, for instance.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 115.

M. THÉBAULT had no doubt that was the case, but most of the children could not read Arabic, and a few Arabs taught them orally Mohammedan prayers. That was all.

M. SAKENOBE noted that the educational activities of the missions in the northern districts were very restricted. There was only one school, which was at Sokodé. Were the people in that part of the territory Moslems, or were there any special difficulties in the way of educational work ?

M. BESSON replied that there were no Moslems in the north. There were no schools, because those areas were less densely populated and the people were more backward.

M. SAKENOBE noted that there were twelve or thirteen official schools, but no mission schools.

M. BESSON replied that it was for the missions to decide where to exercise their activities. As a matter of fact, they proposed to establish schools in the northern part of the territory.

#### ALCOHOL AND SPIRITS.

M. SAKENOBE pointed out that at the thirtieth session, <sup>1</sup> Count de Penha Garcia had asked whether the studies undertaken by the Administration as to the possibility of encouraging the controlled import of mildly alcoholic beverages had led to any practical conclusions.

In 1937, <sup>2</sup> the accredited representative stated that a new decree would be promulgated very shortly to put a stop to alcoholism among the natives. The 1937 report contained the text of the Decree of May 12th, 1937, prohibiting the possession and circulation of stills (page 235). Could the accredited representative give any information on the question asked by Count de Penha Garcia at the thirtieth session of the Commission ?

M. BESSON replied that, according to his information, the application of the decree was proceeding normally. He was under the impression that it was a useful measure and would gradually reduce alcoholism among the natives.

M. SAKENOBE asked whether the Commission was to understand that the Administration's studies had been dropped after the promulgation of the decree prohibiting the possession and circulation of stills.

M. BESSON replied that the Administration had for a long time pursued its policy of preventing the manufacture of alcohol by the natives.

M. SAKENOBE pointed out that the Administration had studied the possibility of encouraging the introduction into the territory of mildly alcoholic beverages for the natives, in the hope of doing away with alcoholism altogether.

M. BESSON said the present Governor was trying to make this policy a success, but a financial question arose : the native must be able to buy the beverages. In any event, the main—the real object—of the Administration was to prevent the manufacture of native alcohol.

M. SAKENOBE noted that the report contained statistics of imports of various alcoholic beverages, which had considerably increased (pages 128 and 129) ; imports of beer were more than twice as high (page 131 of the report). Was that due to the prosperity of the European population ?

M. BESSON replied that the natives were beginning to like beer. The European population had not increased much, nor had its capacity to consume alcoholic beverages.

M. SAKENOBE asked whether there were any distilleries and breweries in the territory. The report contained no information on that subject.

M. BESSON replied that there were no breweries as yet in Togoland. There were no distilleries, except for the illicit manufacture of palm wine by the natives. The local authorities exercised very strict supervision in that connection.

<sup>1</sup> See Minutes of the Thirtieth Session of the Commission, page 74.

<sup>2</sup> See Minutes of the Thirty-third Session of the Commission, page 115.

PUBLIC HEALTH.

COUNT DE PENHA GARCIA noted (page 121 of the report) that, although the position with regard to health was, on the whole, not unsatisfactory, there were certain dark shadows in the picture. Malaria, for instance, was widely prevalent in the territory and was increasing. Cases of leprosy were to be counted by tens of thousands (page 122 of the report). The mandatory Power had adopted certain measures and even built a number of establishments but, in view of the large number of lepers, what had been done was inadequate. He wished to know whether new measures were contemplated, and whether difficulty was experienced in finding the lepers and isolating them.

M. BESSON replied that the question had just been receiving the attention of the new Minister for the Colonies, M. Mandel, who had recently sent a mission to Togoland to study health problems there. Additional information could, therefore, be given in the next report.

COUNT DE PENHA GARCIA was glad to hear M. Besson's statement, in view of the impression given by the report that the number of lepers was on the increase.

With regard to syphilis, the report said, on page 122, "that there could be no preventive treatment of syphilis, in view of the mentality and carelessness of the natives". He would like to have some explanation on that point.

M. BESSON was not in a position to provide detailed information on the question.

COUNT DE PENHA GARCIA said that the disease was a veritable scourge in South West Africa, where it had assumed serious proportions. Such measures as compulsory house-to-house visits should therefore be adopted; this was one of the most effective means of preventing the disease from spreading.

M. BESSON thought that the establishment of the system of social workers, which he had described to the Commission, would perhaps facilitate the campaign against the disease and, in particular, help the doctors in their task.

COUNT DE PENHA GARCIA mentioned another serious disease: sleeping sickness. The position in July 1937 had been much better than in the previous year. He wondered, however, whether all possible steps had been taken to combat the scourge in question; in particular, in connection with the destruction of flies.

M. BESSON thought that everything possible was being done.

COUNT DE PENHA GARCIA saw, from the appendix (page 187 of the report), that some of the decisions taken appeared to be connected with health problems, especially the decisions to hold a "Water Conference" and to appoint a Committee on the sinking of wells. He assumed that that referred, in particular, to the drinking-water supply.

Further, the Decree of November 19th, 1937, established a corps of polyvalent colonial nurses. Could the latter be natives?

M. BESSON replied that that depended on circumstances. For the moment, the staff was still composed of Europeans, but the mandatory Power's intention was, with the assistance of the present staff, to start schools on the spot for training and recruiting native nurses.

LAND TENURE : SYSTEM OF MORTGAGES : EXPROPRIATION OF NATIVE LANDS.

LORD HAILEY, referring to the account of registration and the land system on page 81 of the report, asked whether the system known as "constatation des droits indigènes" had been abandoned.

M. BESSON said that it had certainly not been abandoned.

LORD HAILEY said he had not been able to find any information on the subject in the report.

M. RAPPARD recalled that M. Thébault, in his statement on the previous day,<sup>1</sup> had declared that there had been only one case, in the past five years, of expropriation for failure to redeem a mortgage. What purpose could mortgages serve in the territory? They might be of some value if they enabled bankruptcy to be avoided, but if, in practice, Europeans were anxious not to take over land, and mortgages did not, in practice, result in any change of ownership, the land system would presumably soon cease to derive any advantage from mortgage credit.

<sup>1</sup> See page 115.

M. THÉBAULT explained that commercial firms, for instance, which asked for mortgage guarantees, laid great store by such guarantees. It should, however, be noted that the native, in order to avoid losing the mortgaged property, adhered faithfully to the agreement; and, rather than allow his property to be taken over, his family and friends would arrange to meet his obligations.

M. RAPPARD said that the value of a mortgage guarantee therefore lay in the threat of execution. If that threat were never carried out in practice, mortgages were of no value.

M. THÉBAULT said that the native fully realised that the threat could be carried out. Further, the lawyers would warn natives of the dangers of default. The latter thereupon, through fear of being evicted, arranged to meet their obligations.

M. VAN ASBECK said that the chapter on the domain system and the land system included several tables (pages 79 to 81 of the report), but did not give information regarding the number of the cases in which native property rights were established, a matter to which Lord Hailey had referred. Had there been no such cases in 1937?

M. BESSON thought that if there had been they would have been mentioned in the report; but he could not be positive.

M. VAN ASBECK said that M. Thébault had, in his statement on the previous day, touched on a point which was of the greatest interest to the Commission—namely, that of intervention by the Administration in cases where mortgages were executed.<sup>1</sup> M. Thébault had said that there had been only one case of execution in five years. That was very reassuring from the Commission's point of view, for cases of execution meant the transfer of native property rights to non-natives. But it was not merely a question of practice—the legal system and the facilities it afforded for transfers were also of importance. As appeared from the table showing the number of mortgages registered, the creditors were always non-natives (page 81 of the report). In the separate annex to the report, containing the replies of the mandatory Power's representative to questions asked by members of the Commission, details were given regarding the exercise by the Administration of the control provided for in Article 5, paragraph 2, of the mandate, in particular in relation to the establishment of mortgages. With regard to intervention by public authorities, the following statement was made (pages 9 and 10):

“Control by the public authorities only takes place when the mortgage is agreed to in a document under private signature. In such cases, the document contains a written statement by the mayor or representative of the French authorities, assisted, if necessary, by an interpreter, certifying the identity of the parties, their free consent and the authenticity of their signatures.

“The signature of the certifying official is, in its turn, submitted for legalisation to the President of the court (Article 107).

“Unless the above essential formality has been carried out, the Land Registrar refuses to register the mortgage.

“In view of the formal procedure relating to judicial mortgages and mortgages signed before a notary, the legislative authorities considered it unnecessary to render them subject to the administrative visa described above.”

It appeared, therefore, that the French administrative authority responsible for the execution of the mandate exercised control over one type of mortgage but not over the other types.

He was also interested in the question of what happened when a mortgage was executed by a non-native creditor. It was at that crucial moment—that was to say, when the property was about to be transferred—that the question of Article 5 of the mandate again arose. Would there, at that stage, be some form of control or intervention by the administrative authorities for the purpose of authorising and legally ratifying the transfer? That was a completely different question from that of intervention by the authorities when the mortgage was created. Or did intervention when the mortgage was created cover the transfer which might eventually take place if and when the mortgage was executed? But, if that were so, in the case of two out of the three types of mortgage provided for by the law, there was again no intervention in the event of foreclosure.

M. THÉBAULT said that the fact that there had been only one case of forced execution in five years was due, not to any action on the part of the authorities, but simply to the fact that commercial firms had not prosecuted their debtors. It had been asked what action the authorities took in the event of execution. If the immovable property were registered, it was seized under French law, which was applicable because a European creditor was involved. That was the system of seizure pure and simple as practised in France, the property being sold by auction either before the European court or before the Notary Registrar (*greffier notaire*). The whole procedure was thus supervised by the court itself. If there were any weighty reasons for intervening on behalf of the debtor, the Attorney-General of the Republic did not fail to do so.

<sup>1</sup> See page 115.

M. Thébault recalled that certain French legislative provisions applicable to France, such as Article 1244 of the Civil Code, in which provision was made for a period of grace to be accorded to debtors in hard cases, had been recently extended to the colonies. In order to reassure the Commission, he would take the case of a European merchant desiring to foreclose upon a native, who had registered his premises and had accorded the merchant a mortgage on those premises : it would be sufficient for that native to go to the European court, show that his business had been bad either on account of the depression or for any other reason, and ask for a period of grace under the terms of Article 1244 of the Civil Code, which would be immediately granted to him if he were acting in good faith and if his ill-fortune were due to circumstances beyond his control.

M. VAN ASBECK would like to have more detailed information. Certainly, judicial intervention was possible under the relevant provisions of French law, but was that the intention of Article 5 of the mandate ? A judicial act in application of the law was not subject to the supervision of the League of Nations, and in particular of the Mandates Commission. It was postulated in the procedure of the Commission that it was not the Commission's business to take cognisance of judicial decisions reached in accordance with the law in force : it could take note of that law, weigh it up and form a judgment upon it, but it had nothing to say as to its enforcement by the courts.

On the other hand, it was the intention of Article 5 of the mandate that the mandatory Power itself should intervene in the transfer of landed property from a native to a non-native. So far as M. van Asbeck knew, the legislation in force—that was to say, French legislation—contained no provisions relating to such administrative intervention as affecting the transfer of landed property to a non-native creditor as a result of forced execution.

M. RAPPARD, taking the same line, said that the Commission quite understood the system, which was the French system. If the Administration authorised a mortgage, it could obviously not prohibit foreclosure. That was why provision was made in the mandate for the approval of the administrative authorities as regarded both the creation of a mortgage and its foreclosure. If such approval were postulated for the creation of a real right, it was also postulated for its enforcement. Was there any provision for intervention by the authorities in respect of such enforcement ?

M. THÉBAULT pointed out that the present question related to unregistered native land.

M. RAPPARD replied that the mandate made no distinction on the point, simply speaking of " native land ".

M. THÉBAULT said he had already shown the Commission that it need not concern itself with that point. From a legal point of view, M. Rappard would like intervention by the authorities to be necessary before a mortgage could be foreclosed, whereas M. Thébault considered that that would be rendering the natives a very ill service, as it would amount to depriving them of all credit from Europeans. Consequently, M. Rappard's purely academic and platonic remedy would have the tangible and in no way platonic result that all the commercial houses would be obliged to withhold all credit from the natives.

M. RAPPARD considered that, either the authorities should decide to authorise the possible foreclosure of a mortgage, and to this end accord their approval in the matter of the creation of the real right ; or else, if the mandatory Power desired to avoid that issue—that was to say, the transfer of native land to a non-native as a result of foreclosure—it ought to forbid the procedure altogether, as it was not possible to authorise the establishment of mortgages while at the same time reserving the right to forbid their foreclosure.

The mandate was quite explicit : it provided that no real right over native land could be created in favour of a European without the consent of the mandatory Power.

M. THÉBAULT pointed out that the system of land tenure at present in force gave entire satisfaction both to the Europeans and to the natives.

M. RAPPARD said that it was nevertheless not in accordance with the mandate.

M. BESSON was of opinion that the question as now raised was somewhat outside M. Thébault's province, and belonged rather to his own. The question was whether the mandatory Power was, or was not, applying the terms of the mandate. The Mandates Commission considered that it was not, while the mandatory Power considered that what it was doing was not opposed to the mandate. That was a difficult and delicate point.

M. RAPPARD said that the accredited representative's argument was that there was no objection to the procedure at present followed ; but the fact remained that that procedure was at variance with Article 5 of the mandate.

M. BESSON replied that that procedure had one advantage—that it corresponded to French law. As for M. Rappard's view that it was an infringement of the mandate, M. Besson agreed to a certain extent, but desired to state that the mandatory Power was only showing respect for what was one of its own *raison d'être*: the principle of the protection and welfare of the natives. Moreover, what M. Thébault had just told the Commission went to show that, if effect were given to its view, the result would be that, by abolishing the procedure described, the protection and welfare of the natives would be jeopardised.

M. RAPPARD said that, logically, the mandatory Power ought to propose an amendment to the mandate, as the present procedure was a breach of the terms of the present mandate. Whether it was in the interests of the natives was not the question. The question as it stood at present appeared to be perfectly simple: the law should be altered or else obeyed.

M. BESSON said he understood that, in M. Rappard's view, the mandatory Power ought to adopt a text substantially corresponding to that of Article 5 of the mandate. M. Besson would submit that question to his Government and draw its attention to the desirability of adopting such a text; indeed, he thought it might be well to introduce a similar text for the Cameroons under French mandate, so that there should not be different systems in force in the two territories. He could not promise that his Government would adopt his suggestion, but he now understood more or less what the wishes and intentions of the Commission were.

He then referred to Article 5 of the mandate for Togoland, which read as follows:

“ In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

“ No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-natives may be created except with the same consent.

“ The Mandatory shall promulgate strict regulations against usury.”

M. Besson and M. Thébault maintained that the expression “ native land ” did not include registered land.

M. THÉBAULT thought that there was a misunderstanding. There were two kinds of property: (a) native property governed by the native statute and (b) land which had been europeanised by registration, that was to say, subjected to a special regime, which was, in fact, the regime of registration.

Native land could not be registered without the permission of the authorities, and mortgages could only be taken out on registered properties and never on unregistered properties. Consequently, there had never been a case of foreclosure on a native property.

M. RAPPARD pointed out that the mandate made no distinction, but simply spoke of native land.

M. THÉBAULT said he disagreed with M. Rappard. Article 5 said “ no native land ”; it did not say “ no land belonging to natives ”.

The CHAIRMAN pointed out that such discrimination hardly appeared to be in accordance with the preoccupation that had clearly been the origin of the provision contained in Article 5 of the mandate. The object of that article, which appeared in all B mandates, was to prevent the natives being deprived of their land rights for the benefit of Europeans. To that end, it had been desired that any transaction which might have that consequence should be submitted to the control of the mandatory Power. Article 5 only established one of the methods by which the European authority exercised its guardianship of the native, who *a priori* was considered to be unable to defend his rights.

M. VAN ASBECK said that he had, from time to time, expressed his doubts about registration, which might, he thought, have the effect of withdrawing native land from the sphere of operation of the very definite provisions of Article 5 of the mandate.

He could not agree with M. Thébault that, directly land was registered and became European property by French law, it could be withdrawn from the sphere of operation of the very definite provisions of Article 5. The mandate provided that, before native property could be separated from native patrimony as a whole, the approval of the Administration was required at some stage or other.

Count DE PENHA GARCIA thought that the terms of the mandate were categorical, but that no difficulties had arisen in regard to Togoland. Mortgages were no doubt less valuable, owing to the fact that only a limited number of persons could foreclose them. Only natives could acquire property in the event of the foreclosure of a mortgage; that was not excluded by the mandate, as the property would then remain native.

M. RAPPARD pointed out that, in the mandated territory, creditors always appeared to be non-natives—commercial firms, or the like.

Count DE PENHA GARCIA thought he was right in saying that was not always the case. According to M. Thébault, the law applied might be European law, but only natives were in a position to keep the property, and he seemed to remember M. Thébault's saying that there had only been one case in which the property had been purchased by a non-native.

Lord HAILEY asked whether there was any particular reason why the same procedure should not be adopted as that prevailing in some parts of British West Africa, where no encumbrance for more than a fixed period (usually three years) was valid without the assent of the Government. He thought that was a good system, and might easily be applied in the mandated territory. It would also have the advantage of being in practical accordance with the terms of the mandate.

M. BESSON replied that that system was incompatible with the Civil Code.

Lord HAILEY said that the question was which was the more important; he could not himself believe that the Civil Code was more important than the mandate. Incidentally, the Civil Code had not been applied *in toto* in the mandated territories; it applied with a number of modifications.

M. BESSON said that the mandatory Power had a perfect right to apply the legislation of, for instance, the West African colony.

M. RAPPARD said that that should be subject to the provisions of the mandate.

The CHAIRMAN recalled that the mandate was the constitutional law of the territories under mandate, operating under the peculiar circumstance that it had arisen out of an international Convention. As a consequence, all the special legislative provisions and regulations should remain within the general framework of the mandate. Perhaps M. Thébault could now give the Commission some information.

M. THÉBAULT said that it was a purely academic discussion. In point of fact, since the beginning of the mandate—that was to say, since 1919—there had not been a single attempt of any kind by a European to lay hands on native property.

The CHAIRMAN insisted on the fact that the mandatory authority, in not regarding registered property as "native property", introduced, as between the landed properties belonging to the natives, a distinction which was not recognised in the mandate.

M. THÉBAULT still thought that the term "native land" should be understood as contrasted with "registered property."

M. RAPPARD said that the object of the text was to protect the natives; they would not be protected if it were to be laid down that all land belonging to natives was to be registered.

M. BESSON thought that the question had already been amply discussed. He had been extremely interested in the observations made by members of the Commission, and had also learnt a great deal from what M. Thébault had told them. He thought the best thing would be to allow him to discuss with his Government whether it was, in its opinion, desirable, or not, to supplement the local legislation of Togoland in the light of the spirit and letter of the mandate. To pursue the present discussion further would not serve any useful purpose. The sole aim of the Commission and of the mandatory Power was to protect the natives. He asked the Commission to show its confidence in the Mandatory, as it had so often done in the past, and said that he would endeavour once more to bring the two points of view into harmony.

The CHAIRMAN said that the Commission had every confidence in M. Besson. He wished, however, to point out to M. Thébault that it would be an error to suppose that the matter was only of purely academic interest. For those who were familiar with the conditions existing in Togoland the problem might present itself in that light so far as that territory was concerned. Nevertheless, the mandate should be respected, both in the spirit and in the letter.

As the Chairman had already pointed out, the provisions of Article 5 appeared in other mandates, and it was the Commission's duty, as guardian of the mandate system, to see that no fissure occurred therein.

M. VAN ASBECK agreed that that question, which appeared for the moment to be purely academic, might, in the near future, involve decisions of a practical nature.

He desired to avail himself of the opportunity afforded by M. Thébault's presence to discuss the expropriation of native rights. The annexes included (page 204 of the report) an Administrative Order promulgating the Decree of February 14th, 1937, regulating expropriation for reasons of public utility in Togoland under French mandate. That decree applied to private owners, and indeed private property was the idea underlying throughout the provisions of the decree relating to expropriation for constructional work of public utility.



What happened when an engineer or anyone else entrusted with work of that kind found, on his site or line of advance, native rights, not of ownership, but of user or of some other kind?

M. THÉBAULT said that he knew of no case of the provisions of that decree being applied in Togoland; but if they were, the same thing would happen as happened in France in the case of expropriation which injured the rights of an owner and a tenant: both would be compensated.

M. VAN ASBECK said he had not found anything in the decree relating to compensation in such cases. Moreover, the text of the decree appeared to refer solely to rights established by the Civil Code.

M. BESSON said that it would be necessary to review the whole of the legislation on expropriation for reasons of public utility, which was extremely voluminous.

M. THÉBAULT referred M. van Asbeck to Article 23 of the decree in question, which he read.

M. VAN ASBECK said that that article referred merely to rights arising out of the Civil Code, and not to the native rights of which he had spoken.

M. BESSON pointed out that paragraph 1 of Article 23 contained the following passage: "Servitudes arising out of the owner's actual title or other deeds." If there were any procedure that was complete and absolute, it was that of expropriation for reasons of public utility.

Lord HAILEY thought that the mandatory Power had not yet delimited the "vacant" lands in the territory. That being so, how did it determine what land was available for public utilities, in the sense that it had no rights subsisting over it?

M. THÉBAULT said that, in the matter of vacant lands, it might be thought that the authorities desired to lay hands on some of them; but there, again, what they were doing was really only to protect the natives. The relevant provision was simply designed to prevent natives who were more enterprising than others from taking lands which they thought would probably acquire a certain value later. The Administration had taken possession of those lands, which could only be distributed under its supervision. If it owned no vacant lands, how could it ensure the transfer of thousands of inhabitants from the district of the Kabrese, where they had suffered the ravages of sleeping-sickness, to those same vacant lands?

The CHAIRMAN observed that Lord Hailey had asked whether the vacant lands in the territory had been delimited.

M. THÉBAULT replied that they had not; that would mean surveying the whole territory.

M. BESSON said that even French West Africa had not been surveyed.

Lord HAILEY said that he had not meant to imply any criticism of the mandatory Power on account of the vacant lands not having been delimited. His point was a different one; all vacant lands were regarded as belonging to the State; in that respect, the law simply reproduced, for the territory of Togoland, the provisions of French law, and even of Roman law; but when any question of alienation arose, it was the business of the local official to decide upon the rights of any native who might claim a right of occupation, grazing, hunting, etc., over these lands. What Lord Hailey wished to know was the procedure adopted in enquiring regarding rights claimed in such cases, as the areas involved were considerable. He pointed out that, in the Congo, the Belgians considered that the most equitable manner of settling the question was to allow an independent assessor to sit with the official responsible for enquiring into each particular case.

In short, all Lord Hailey wanted to know was the procedure whereby it was decided that this or that land was "vacant" land—that was to say, not only without native ownership but without any rights of user or grazing or other rights whatever.

M. BESSON said that, as there was no delimitation, there could be no procedure of delimitation.

M. THÉBAULT said that there had never been any disputes on the matter. The natives who had the use of land continued to have the use of it.

Lord HAILEY said that that was not the question. He was merely endeavouring to clear up a highly important question as to the procedure adopted before an alienation of "vacant" land was allowed. The Germans, for instance, had set up Land Commissions which followed a prescribed procedure. What was the procedure in Togoland now? It must be realised that any land over which a native had not got a registered title was liable, in strict point of law, to be considered as "vacant land".

M. BESSON thought it would be sufficient to read the text of the Administrative Order, which was very comprehensive—even on the question of expropriation.

M. THÉBAULT repeated that, during the five years he had spent in the territory, he had never known the question to arise.

M. RAPPARD said he would give an instance. The Commission had just been told that the authorities had been carrying out a vast scheme for shifting native populations in their own interests. Before settling them elsewhere, the Administration must have satisfied itself that the land contemplated for their settlement was not encumbered by any other native rights.

M. BESSON replied that the procedure had been determined by the officials on the spot.

Lord HAILEY asked whether there was any provision for appeal to the courts or to the Commissaire de la République in difficult cases.

M. BESSON replied that the procedure was governed by administrative measures.

Lord HAILEY asked whether the authorities had allocated to natives the large quantities of land involved in "resettlement" proceedings merely by an *ad hoc* procedure.

M. BESSON said that the authorities were not in the habit of acting in such an irresponsible manner. The next report might contain detailed information on the question.

Lord HAILEY repeated that he was merely asking for a copy of the rules laying down the procedure. He had no reason to doubt that the arrangements made had been excellent. Nevertheless, in view of the importance of the question from the point of view of the Mandates Commission, he wished to know whether it would be possible to state in the next report what administrative instructions had been given to the officials who had to decide such cases. Such instructions existed in all colonies, and must certainly exist in Togoland under French Mandate.

M. THÉBAULT said that there was a Decree of March 13th, 1926, and an Administrative Order of April 1st, 1927, relating to vacant lands.

Lord HAILEY said that those enactments did not contain the information for which he was asking. The instructions issued by Lord Lugard for Nigeria, and which were often quoted, were typical of the class of orders to which he was referring.

The CHAIRMAN, speaking in the name of the Commission, asked for information concerning the practical instructions given to the competent officials. Personally, he did not know of any African territory where the conditions were analogous to those prevailing in Togoland, in which all the vacant lands had been delimited: indeed, that would be practically impossible. In general, when it was proposed to give to third parties a real right over land presumed to be vacant, an enquiry was instituted which would enable the natives, if necessary, to claim their rights. If, as a result of the enquiry, it were decided that the lands were vacant, and should the State, as owner, decide to give away or transfer them to third parties, only then would the lands be delimited. What the Commission desired to know, in view of the importance it attached to the preservation of the land rights of the natives, was what procedure was adopted to safeguard those rights.

M. BESSON replied that the procedure was indicated in the Decree of 1926.

M. VAN ASBECK requested that the next report should state what was meant by "vacant lands" from the point of view of the various native rights—both those of user and others—and also what happened to customary land rights in the event of expropriation on grounds of public utility.

The CHAIRMAN said that the next report might contain replies to those various questions.

FORESTS.

Count DE PENHA GARCIA referred to the following passage from the chapter relating to forests and reforestation (page 73 of the report) :

“ Efforts are being made to protect forests, especially in the subdivision of Palimé, where the wooded parts are more extensive. Combined measures are taken for the supervision of deforestation and the development of the cultivation of the coffee-bean.”

He asked that the next report might contain detailed information on that question.

M. BESSON noted his request.

CLOSE OF THE HEARING.

The CHAIRMAN thanked M. Besson for his assistance, and again thanked M. Thébault, on behalf of the Commission, for his statement concerning the results of his work on the codification of native customs.

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FOURTEENTH MEETING.

*Held on Friday, June 17th, 1938, at 10.30 a.m.*

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**Tanganyika Territory : Examination of the Annual Report for 1937.**

Mr. H. C. D. C. Mackenzie-Kennedy, C.M.G., Chief Secretary to the Government of the Territory, and Mr. Whitlamsmith, of the Secretariat of the Government of the Territory, accredited representatives of the mandatory Power, came to the table of the Commission.

WELCOME TO THE ACCREDITED REPRESENTATIVES.

The CHAIRMAN welcomed the accredited representatives in the name of the Commission and expressed his pleasure at being able to examine the report of the mandatory Power with two high officials so intimately acquainted with Tanganyika.

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

Mr. MACKENZIE-KENNEDY made the following statement :

I wish to spare you the weariness of having to listen to a general statement ; but I would like to express, on behalf of my colleague and myself, our very cordial thanks for the welcome which you have accorded to us.

A picture of Tanganyika was drawn by Sir Harold Macmichael in 1935 ; and the picture is the same in form to-day, although, of course, the details vary from year to year.

We have tried in the report for 1937 to give you as complete a story as possible, and particularly to refer to those matters in which the Mandates Commission has, from time to time, shown special interest. If there are any gaps in the report, and we can help you during your examination of it to fill those gaps, we are very much at your disposal.

STATISTICAL INFORMATION REGARDING TERRITORIES UNDER MANDATE.

The CHAIRMAN, before turning to the detailed examination of the report, wished to make a general comment on its form. At the thirty-first session,<sup>1</sup> the Commission had expressed a wish to find each year in the report a table similar to that included in the statistical document on public finance, trade and population movements. Such tables were inserted as a matter of course in a number of reports on other mandated territories. He noticed, however, that the desired table did not appear in the 1937 report on Tanganyika Territory.

Mr. MACKENZIE-KENNEDY said that the table had been inadvertently omitted. He expressed his regret, and undertook to make sure that the omission would not occur again.

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 49.

DOCUMENTATION SUBMITTED TO THE COMMISSION.

Count DE PENHA GARCIA congratulated the Administration of Tanganyika on the excellent reports and publications submitted on the administration of Tanganyika. They were of the highest interest both to the Commission and to all students of colonial affairs.

TRANSPORT POLICY : RHODES-ROBINS AGREEMENT.

M. PALACIOS thanked the mandatory Power for the information furnished in the report in reply to the questions put by him in 1937, and asked whether the accredited representative had anything to add to the particulars of transport policy contained in the report (paragraphs 43 and 44, pages 25 and 26, of the report).

Mr. MACKENZIE-KENNEDY replied that the effect of the Rhodes-Robins Agreement was that a percentage of the net railway profits, after deduction of operation costs, was now to be allotted to each territory. Rates on each railway to and from terminal points on Lake Victoria were the same, and the effects of competition would be modified by a provision for sharing out profits. The agreement was for a definite term of years and was of benefit to all concerned.

QUESTION OF REFERRING TO THE MANDATE IN ORDERS-IN-COUNCIL.

M. PALACIOS said that, on March 31st, 1938, the United Kingdom Government had communicated to the Mandates Commission a letter on the subject of the wording of the preamble to Orders-in-Council applied to Tanganyika (Annex 4).

The mandatory Power pointed out that, in its letter of January 12th, 1928, it was stated that steps would be taken to ensure that reference to the mandate would be made in any future Order-in-Council dealing with the Territory and that this assurance had been given in view of a remark by the Mandates Commission on the annual report on Tanganyika for 1926.<sup>1</sup> The mandatory Power added that while the suggestion of the Mandates Commission referred only to important Acts, the assurance given in the above-mentioned letter from the Foreign Office applied to all future Orders-in-Council. This wording was—the letter stated—inadvertent, and Lord Halifax had been advised that it had given rise to practical difficulties, since, in amending Orders of an unimportant character, it was usually unnecessary to refer in the preamble to anything but the existence of the principal Order. His Majesty's Government stated that it intended, in future, to conform to the suggestion made by the Mandates Commission in the observation referred to above, and only to insert a reference to the mandate in important Orders-in-Council.

What were the difficulties referred to in the letter from the United Kingdom Government ?

Mr. MACKENZIE-KENNEDY said that it sometimes happened that an Order-in-Council required some slight modification—for example, where the title or description of some official was changed—for which purpose a short amending Order was issued. It was incongruous in such cases to insert a lengthy preamble at the head of the Order. The fact that this was not being done involved no question of principle, but was merely a matter of convenience in legal drafting.

M. PALACIOS observed that two or three words would be sufficient to do justice to the existence of the mandates. However, he accepted the accredited representative's explanation.

CONFERENCE OF EAST AFRICAN GOVERNORS.

M. PALACIOS recalled that, in its report to the Council on the work of its twenty-seventh session,<sup>2</sup> the Mandates Commission had submitted the following observation on the subject of the Conference of East African Governors :

“ The Commission, while appreciating the information supplied to it with regard to the work of the Conference of East African Governors, wishes to emphasise the importance which it attaches to the discussions which concern the mandated territory, directly or indirectly.”

The annual report for 1937 (page 24, paragraph 42), gave some details regarding the Conference of Governors held in 1937. It stated that the main questions discussed by it were :

<sup>1</sup> See Minutes of the Eleventh Session of the Commission, page 202.

<sup>2</sup> See Minutes of the Twenty-seventh Session of the Commission, page 228.

co-ordination of research, yellow fever and aircraft, corporal punishment, native divorce legislation, terms of service in the Administration and training of Africans in forestry.

Could the accredited representative inform the Commission which of the proposals made by the Conference of Governors had been adopted by the Government of Tanganyika ?

Mr. MACKENZIE-KENNEDY replied that, in the matter of the co-ordination of research, the proposals put before the Governors' Conference had been somewhat nebulous. Final proposals were not yet forthcoming : but the subject was constantly under review, and progress would no doubt be made in the near future.

With regard to yellow fever and aircraft, the Director of Medical Services of the Territory had just completed a journey in West Africa, and on receipt of his report the question of sanitary aerodromes would be further studied by the Administration.

Corporal punishment of members of the police and prison personnel had now been abolished for all categories except buglers, who were young boys.

As for divorce, Mr. Mackenzie-Kennedy had nothing to add for the present to the information contained in the report.

The proposals relating to conditions of service in the Administration dealt with matters of detail such as leave and allowances.

As to the training of Africans in forestry, a conference of forestry conservators had recently been held at Entebbe, as a result of which concrete proposals had been put before the competent authorities. Some progress might therefore be expected in that direction as soon as the financial repercussions of the proposals were clearer.

#### JOHANNESBURG CONFERENCE.

M. VAN ASBECK asked whether there had been any further contacts in 1937 between Governors of British, Portuguese and Belgian colonies and territories, who had met in 1936 at the Johannesburg Conference.<sup>1</sup>

Mr. MACKENZIE-KENNEDY replied that the Governor of Tanganyika Territory had not attended any such conference in 1937. There was, however, a continuous exchange of views between the various territories and colonies and the South African Government, especially on points of interest to technical officers of the Government.

#### LEGISLATIVE COUNCIL.

M. VAN ASBECK referred to the appointment of unofficial members of the Legislative Council (page 7, paragraph 10, of the report), where it was said that unofficial members were nominated without regard to representation of particular races, interests or public bodies ; he asked whether it must be assumed, in view of the fact that members of the Council were required to take an oath of loyalty to the King, that the above-mentioned passage had to be read subject to the qualifications that, in any case, members had to be British subjects.

Mr. MACKENZIE-KENNEDY said that the intention of that passage in the report was to convey that the Governor, in selecting unofficial members, disregarded the private interests or the representational character of the persons selected. In other words, any person likely, in the Governor's judgment, to be of assistance as a member of the Council could be selected. The oath of allegiance had to be taken by all members.

M. VAN ASBECK observed that such a position would be unexceptionable in a British colony ; but he wondered whether it did not call for special scrutiny in the case of a mandated territory which was not under His Majesty's sovereignty and which had its own identity. In his mind, the question had arisen whether there were not arguments in favour of representation of settlers, even of foreign origin, who contributed to the Territory's welfare and who had lived for a prolonged period in the Territory ? Instead of taking an oath of loyalty to the King, they might be required to swear to further the interests of the Territory, somewhat on the lines of the undertaking which, after federation in India, would have to be given by Indians who were subjects of Indian States.

The CHAIRMAN wished to make it clear that the Commission had not discussed the question, and had therefore no collective view thereon.

M. VAN ASBECK said he did not intend to press the matter any further just now. He asked whether seats were reserved for Indians on the Legislative Council.

Mr. MACKENZIE-KENNEDY said that, although no number was laid down, in practice, there had been not fewer than three Indians on the Council for some years.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 19.

QUESTION OF GERMAN PROPAGANDA : NATURALISATION.

M. VAN ASBECK raised the question of German propaganda. He had read in the papers—and the question had been discussed in the British House of Commons—that there was some evidence of German propaganda within the Territory. If one were to believe the *African World* of September 11th, 1937, the Hitler Youth Movement was active in Tanganyika ; and there had been some curious happenings at a German school at Mweka, including a frankly National-Socialist demonstration. Was there any truth in those allegations and what was the extent, if any, of Nazi propaganda in the Territory ?

Mr. MACKENZIE-KENNEDY replied that he had been throughout convinced that the allegations repeated in certain Press organs were without justification. A group of small boys with three masters had organised a camp for about ten days and cleared a sports ground. This instantly led to a rumour that they were digging trenches ! The Swastika had been flown ; but the Union Jack was flown alongside. The National-Socialist salute was given by all Germans in the Territory, even sometimes to officials of the mandatory Administration. He had himself, during his term as Acting Governor, visited Arusha shortly afterwards and had satisfied himself that the “competent observers” of the Press had, in fact, obtained most unreliable information. Another holiday camp had been held shortly afterwards at which British and German boys fraternised together in complete harmony.

Lord HAILEY asked whether there was now in Tanganyika any open or active propaganda by Germans in favour of the return of the Territory to Germany.

Mr. MACKENZIE-KENNEDY replied categorically that there had been no reliable evidence of open or active propaganda up to the time of his departure from the Territory. There was no doubt a natural feeling on the part of individual members of the German colony in favour of return to the German flag. But all Germans were most anxious, and had given evidence of their anxiety, to refrain from engaging in any type of overt propaganda. He considered that they had been most tactful and law abiding in that respect.

The CHAIRMAN asked whether there was any evidence or trace of underground action designed to influence the natives generally, or any particular groups of natives.

Mr. MACKENZIE-KENNEDY replied that the native population was naturally not unaffected by Press rumours. The policy of the Administration was to give the widest publicity to the answers to unfounded rumours. There was no reliable evidence that undue influence was being brought to bear upon the natives. The Administration's only anxieties had been in connection with inaccurate reports. Every effort was constantly being made to dispel rumours and conjectures.

INTERNATIONAL CONVENTIONS.

Count DE PENHA GARCIA was glad to observe that the international Convention for the Protection of the Fauna and Flora of Africa had been applied to the Territory (see page 7 of the report).

He would ask for one further slight improvement in the table of Conventions and treaties applying to the Territory (pages 3 to 7 of the report)—namely, the addition of the date of accession to each instrument.

Mr. MACKENZIE-KENNEDY said the year of accession could no doubt be shown without difficulty.

FRONTIER BETWEEN TANGANYIKA AND RUANDA-URUNDI.

Count DE PENHA GARCIA referred to the Treaty of November 22nd, 1934, concerning the frontier between Tanganyika and Ruanda-Urundi. At the thirty-third session of the Commission, <sup>1</sup> M. Halewyck de Heusch, replying to a question as to the stage reached in the matter, stated that the parliamentary procedure for the approval of the Convention in Belgium had gone through all its stages, but that the consent of the United States of America was required before the treaty could come into effect. Had that consent now been given ?

Mr. WHITLAMSMITH replied that the United States Government had taken note of the treaty, which had subsequently been ratified by an exchange of notes between His Majesty's Government and the Belgian Government in May 1938.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 83.

FRONTIER BETWEEN TANGANYIKA AND MOZAMBIQUE.

COUNT DE PENHA GARCIA referred to the agreement between the United Kingdom and Portugal concerning the frontier between Tanganyika and Mozambique, which had been approved by the Council of the League in September 1937.<sup>1</sup> Had that agreement been put into force since the drafting of the 1937 report?

Mr. MACKENZIE-KENNEDY said that the agreement came into force with effect from February 1st, 1938. The formal consent of the United States Government was being invited in that case also.

ECONOMIC EQUALITY : MOST-FAVOURLED-NATION CLAUSE : CASE OF STATES NON MEMBERS OF THE LEAGUE OF NATIONS.

COUNT DE PENHA GARCIA paid a tribute to the mandatory Power's policy in securing most-favoured-nation treatment for Tanganyika products from a large number of countries (page 6, paragraph 7, of the report).

On page 28, paragraph 46, the mandatory Power, referring to an observation of the Commission,<sup>2</sup> stated that, in its opinion, although States not members of the League could not claim economic equality for their goods imported into Tanganyika, either under the terms of the mandate or under Article 22 of the Covenant, there were nevertheless some cases in which a claim might be justified under other instruments applicable to Tanganyika.

Could the accredited representative state to what other instruments the passage referred?

Mr. WHITLAMSMITH said that the instruments in question were :

(1) The Treaty St. Germain, 1919, to which Italy, the United States of America and Japan were parties ;

(2) The Agreement of February 10th, 1925, between the United Kingdom and the United States of America, granting to the nationals of the latter country the same economic rights in Tanganyika as those possessed by nationals of League Members ; and

(3) Various bilateral trade agreements between the United Kingdom and other countries according them most-favoured-nation treatment in Tanganyika (namely, the countries enumerated on page 6, paragraph 7, of the report).

COUNT DE PENHA GARCIA had a feeling that there was a contradiction between the principle enshrined in the mandate and some of the agreements to which reference had just been made. The mandatory Power's statement, which he had just summarised, seemed to him, in the circumstances, to be somewhat too categorical, although he was prepared to admit that, since Tanganyika stood to gain as a result of being granted most-favoured-nation treatment, departure from the rigid principle in question might be justified.

Lord HAILEY wished to put a hypothetical question. If it should be thought advantageous, from Tanganyika's standpoint, to impose a duty on Japanese goods entering the Territory, would the mandatory Power consider itself debarred from taking that course by reason of a Commercial Treaty between the United Kingdom and Japan? In other words, was the Mandatory bound by the terms of a general treaty entered into by it in regard to its own territories, but without special reference to the mandated territories?

Mr. MACKENZIE-KENNEDY said that Lord Hailey would appreciate that it was impossible for him to reply without legal advice. The question would be referred to the mandatory Power, and an answer given to it in the report for 1938.

M. RAPPARD observed that, while the commercial treatment accorded to Tanganyika by a number of countries was extremely gratifying, few products of the Territory competed with those of other countries. There had probably been little hesitation on the part of the countries concerned in granting favourable treatment. The only raw product which might conceivably count as an element of competition with other countries seemed to have been sisal.

He referred to the list of Government Ordinances on page 74 of the report. He wondered whether Government Notice No. 140, 1937, prohibiting exports of certain chemicals to Spain, was not discriminatory. Was it justified by the policy of non-intervention. Also, what was the object of Notice No. 166 prohibiting the import of handkerchiefs bearing impressions of currency notes?

<sup>1</sup> See *Official Journal*, December 1937, page 898.

<sup>2</sup> See Minutes of the Thirty-first Session of the Commission, page 189.

Mr. MACKENZIE-KENNEDY undertook to deal with Government Notice No. 140 at a later stage.<sup>1</sup> The reason for Government Notice No. 166 had been a sudden influx of cheap handkerchiefs carrying a reproduction of a ten-shilling note, which—as many of the natives were still very gullible—were thought to be undesirable.

#### REORGANISATION OF THE CENTRAL ADMINISTRATION.

M. VAN ASBECK said that the reform of the Central Administration recently carried out was of great interest (page 24 of the report). What were the powers of the new Financial Secretary ?

Mr. MACKENZIE-KENNEDY explained that it had been necessary to separate financial and economic affairs, which were of growing importance in the Territory, from the other questions with which the Chief Secretary had to deal. The new Financial Secretary would now deal, in the first place, with all such questions, keeping in close contact with the Chief Secretary and submitting, in conjunction with the latter, his proposals to the Government and the Legislative Council. The Government remained free, however, to override the Financial Secretary if it saw fit, though, as a matter of practice, a conflict of view's was unlikely to occur.

In reply to M. Sakenobe, who enquired as to the functions of the new Administrative Secretary (page 24 of the report), he added that the latter official was to be the deputy of, and assistant to, the Chief Secretary in all administrative matters. He would not overlap with the Financial Secretary, though always in close touch with him, but would assist the Chief Secretary in matters of general administration.

#### DIRECT AND INDIRECT ADMINISTRATION : PROPORTION OF EUROPEANS, ASIANS AND AFRICANS IN THE ADMINISTRATION : PARTICIPATION OF THE EDUCATED NATIVES IN THE ADMINISTRATION OF THE TERRITORY : AMALGAMATION OF CERTAIN DISTRICTS AND OF NATIVE TREASURIES.

M. VAN ASBECK referred to the list (Appendix 1, page 184 of the report) of the Europeans, Asiatics and Africans in the Administration. This list gave a very useful picture of the part played by natives in the Administration ; he noted that the number of Africans employed had increased by eighty-eight in the course of the year.

He wished to ask whether it was the mandatory Power's intention to encourage the participation of educated Africans, not only in subordinate posts and in technical services, but also in the general Administration—that was to say, in responsible posts in which their education would prove useful. The problem was common to all African territories ; and it was desirable that useful and responsible functions should be given to educated detribalised natives, as the future of native education largely depended upon the use that could be made of it.

Mr. MACKENZIE-KENNEDY replied that it was the firmly settled policy of the mandatory Power to employ Africans in any posts for which their capacities fitted them. The number of Africans so employed was increased wherever possible. The Commission must remember, however, that there was also a considerable Asiatic population—persons born in the Territory, who had never seen, and never would see, Asia—for whom places had to be kept.

The Administration desired to reduce the number of Europeans in its ranks—and that, not only for financial reasons, however important. In that connection, the Commission might be interested to learn that a Conference was now being held in London to examine the possibility of setting up a provident fund for the purpose of providing pensions for African and Indian members of the Administration. At the same time, the number of educated Africans fit to take on even subordinate administrative functions was not sufficient : the demand was very much greater than the supply.

M. VAN ASBECK referred to a passage in the Governor's address at the recent opening of the Legislative Council in which His Excellency said that the majority of the Native Administrations had done good work during the year, and had again demonstrated the essential soundness of the policy framed and put into effect by Sir Donald Cameron. The Governor had gone on to refer to the two chief difficulties in the way of wider participation by natives in the Administration, which had revealed itself in some parts of the Territory—namely, inertia on the part of tribal authority and a tendency towards unreality in the attitude of the natives (page 198 of the report).

It seemed, therefore, that a prime requisite for success in indirect rule was a sufficient amount of guidance and advice by European officials. He had learnt from some of the Provincial Commissioner's annual reports that, during the wet season, the roads were, in some



districts, impassable ; and he wondered whether, at such times, local native officials were abandoned to their own resources and lost all contact with the Provincial Commissioners. Had the accredited representative any commentary to furnish on that point ?

Mr. MACKENZIE-KENNEDY said that it was true that during the rains many earth roads became impassable ; but the district officers generally managed to get through on foot. The difficulty was not so much the state of the roads as the burden of office work which the district Officers had to carry. The Administration was making every effort to reduce the amount of paper work, so as to allow the officials concerned to travel more and to keep in still closer touch with native authorities. As for road improvement, that clearly depended upon finances.

M. VAN ASBECK noted that the report spoke in several places of amalgamations of districts, treasuries, etc. No doubt that was often advantageous. But he observed that, in one case (page 10 of the report), experience had shown that a merger had not increased the efficiency of administration, and had had to be cancelled. Had there been, in that case perhaps, as was also the case in some colonial empires, some over-haste in the desire to simplify the administration, and had the natives' interest been overlooked ?

Mr. MACKENZIE-KENNEDY replied that, in that particular case, it had been hoped, as a result of the merger, to set certain officials free to travel and to keep in closer touch with the natives. In the event, however, it had been found that reports relating to the Pangani district having to go through another officer to the Provincial Commissioner meant undue waste of time.

The policy of amalgamation did not affect the natives in the sense feared. Its object was to reduce the number of offices, not the number of officials. The latter were, on the contrary, relieved of office work as a result of amalgamation, and had more time to devote to actual contact with natives.

M. SAKENOBE drew attention to the fact that Pangani district was separated from Tanga district, which, he understood, was under direct administration, and asked whether the separation in this case did not involve some change in the system of administration of the district concerned.

Mr. MACKENZIE-KENNEDY replied that that was not so. Within certain districts, there were areas under direct administration and areas administered by the natives. Changes in, or mergers of, districts did not affect the position. The situation in regard to direct and indirect administration was constantly changing, the tendency being to switch over from the former to the latter, wherever possible. It would not be easy, just because of these constant changes, to give an exact picture of the general extent of indirect administration ; but provincial commissioners would be instructed to make the position as clear as they could in further reports.

M. VAN ASBECK was glad to obtain this reassurance. In many colonies, there was constant administrative reshuffling, to the great detriment of native interests.

It appeared from the report that, in many cases, the number of native treasuries was very much lower than the number of native chiefs in the same area, for example, in the Dodoma province (page 5 of the Reports of the Provincial Commissioners).

Was the position that the chiefs took little interest in finance, and that the treasuries were wholly in the hands of European officers ? Might not the amalgamation of treasuries lead to undermining the interest of the chiefs ?

Mr. WHITLAMSMITH replied that, in primitive areas, the part played by European officers was naturally much greater. In no case, however, would the estimates be drawn up by district officers without consultation with the native chiefs on the subject of social services, improvements, etc.

M. VAN ASBECK said that he had always understood that, in areas where indirect administration was the rule, the principle should be to teach the natives sound finance by allowing them to manage their own treasuries. As the number of native treasuries seemed in some cases on the small side, he asked how that state of affairs was to be reconciled with the proved aims of the system of indirect rule.

Lord HAILEY added that, as a result of fusion and federation there were now only seventy-seven native treasuries in the whole Territory.

Mr. MACKENZIE-KENNEDY entirely agreed that the natives should be encouraged to manage their financial affairs. Some tribes were, however, still very primitive and in need of support and advice. It could also happen, of course, that a district officer gave too much advice. In such cases, the Administration warned him that greater latitude should be allowed to the natives. The rate of progress was bound to differ widely from district to district.

M. VAN ASBECK asked for information concerning the 1937 estimate of £155,200 for "native administrations," shown on page 42 of the report.

Mr. MACKENZIE-KENNEDY explained that this was merely an accounting device. The whole of the yield of the native tax was entered on the revenue side ; and this figure represented for 1937 the proportion of the tax refunded to the natives, plus a few small grants and miscellaneous refunds. Roughly, a quarter of the native tax was returned to the natives.

#### ORGANISATION OF MUNICIPALITIES : TOWNSHIPS : MINOR SETTLEMENTS.

M. VAN ASBECK asked how, in view of the administrative reforms carried out at Dar-es-Salaam (see page 9 of the report), native interests came into the framework of local government, since the non-statutory native advisory council had ceased to exist. Were natives represented on the Township Authority ?

Mr. MACKENZIE-KENNEDY explained that the Township Authority (page 10 of the report) had been in existence for some years. It consisted of the Municipal Secretary and a number of residents, and dealt with domestic expenditure on roads, drainage, etc. Up to 1937, the Municipal Secretary had also been an assistant district officer. But with a native population of 23,000, this had been felt to be unsatisfactory. The two functions were therefore now in separate hands. There were township authorities in a number of other towns : they all had advisory functions and dealt with both native and European affairs. They received grants from the Government. There were no local rates, except in a few cases where a small sanitary rate was levied. The natives were very seldom directly represented ; but their interests were in the hands of the District Officer, who was also in close touch with non-statutory native advisory councils or native authorities.

But the whole system of municipal administration was in its infancy. He undertook to deal more fully with the subject in the 1938 report.

M. VAN ASBECK asked for information on the Minor Settlements, which, according to the report (page 73), charged sanitary fees in certain centres.

Mr. MACKENZIE-KENNEDY explained that Minor Settlements were small villages which could not yet rank as constituted townships. The object of the fees was to enable some control to be exercised over cleanliness and the habits of the natives. The sanitary authorities were appointed either by the Government or by the District Officers, and collaborated with the native representative bodies.

#### DISTURBANCES IN THE MOSHI AND BUKOBA DISTRICTS.

M. VAN ASBECK referred to the disturbances in the coffee-producing areas, concerning which the report gave full and satisfactory explanations (pages 11, 12 and 206-216 of the report). He noted the statement that "the chiefs themselves were largely to blame for failing to explain the (coffee) rules to the people" (page 12 of the report). He understood that the rules had been framed by the Agricultural Department, in order to improve the quality of the coffee. Had there been any consultation, before those rules were promulgated, with the District Officers concerned ? Or were technical services empowered to deal directly with the native authority ?

Mr. MACKENZIE-KENNEDY explained that such consultation was a matter of course, since the rules had to be issued by the native chiefs after discussion with the District Officers in Bukoba. It was an invariable rule for the technical services of the territory that they should not issue regulations without previous consultation with the District Officers, although the technical authorities were encouraged to discuss freely with the natives and native authorities on matters of interest to each, in order to obtain a clear idea of the actual situation with which they were called upon to deal. In other words, decisions were only taken after full consideration by the whole hierarchy of the Administration.

In this particular instance, he had no doubt whatever that the single cause of the disturbances in Bukoba had been the sin of omission at the last stage—that was to say, the failure of the local chiefs properly to explain to the people rules which they themselves had promulgated after consultation with British officers.

M. VAN ASBECK was glad to see that the report contained in an appendix a very full account of the disturbances in the Moshi District of the Northern Province (page 206 *et seq.* of the report). He observed that, in his speech to the Legislative Council, the Governor

congratulated the local chiefs on their exemplary behaviour in the emergency (page 198 of the report) and wished to underline that the Royal Air Force had not used bombs as a coercive measure (page 213 of the report).

The report (page 213) spoke of deportations and other measures taken to deal with the rioters. He understood that thirteen natives had been removed to other districts within the Territory, and that court proceedings were taken against 120 persons, of whom 103 were convicted.

Could the accredited representative state whether any other persons involved had been deported, and what were the penalties inflicted on the 103 convicted persons. Also, what was the present situation in the districts concerned ?

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## FIFTEENTH MEETING.

*Held on Friday, June 17th, 1938, at 3.30 p.m.*

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### **Tanganyika Territory : Examination of the Annual Report for 1937 (continuation).**

Mr. Mackenzie-Kennedy and Mr. Whitlamsmith came to the table of the Commission.

#### TSETSE RECLAMATION.

M. SAKENOBE noted that the Administration had done a good deal of work in connection with tsetse reclamation, and that extensive details were given regarding the Central Province, the Western Province, the Lake Province and the Northern Province (page 18 *et seq.* of the report). A substantial measure of success seemed to have been achieved. He would like to know what measures had been taken in other Provinces. Were they included in the general programme of tsetse reclamation, or were the measures concentrated on the Provinces just mentioned ?

Mr. MACKENZIE-KENNEDY said investigations were being made in the South and in the district near Kilimanjaro, as reported on page 29 of the report. Mr. Swinnerton, who had unfortunately died recently, had drawn up a seven-year programme, financed by the Imperial Exchequer, which included the Southern districts. It was, however, true that the tsetse reclamation work had mainly been concentrated on the districts mentioned.

#### DISTURBANCES IN THE MOSHI AND BUKOBA DISTRICTS (*continuation*).

M. VAN ASBECK asked for a reply to his question at the end of the previous meeting, regarding the serious disorders at Moshi and Bukoba. <sup>1</sup>

Mr. MACKENZIE-KENNEDY said that no further deportations had taken place : the other persons involved had been subjected to fines and imprisonment, or either of these penalties, the terms of imprisonment being from one to six months or one year. At the present time there was peace and quiet on Kilimanjaro. The people who instituted the suit against the Chagga Chiefs had been non-suited, but following on appeal were reinstating the suit. The matter was of merely academic interest, as the Government had taken control of the coffee industry and passed the necessary legislation, so that the Chiefs had no longer need to intervene in economic matters.

#### INSPECTION OF THE ADMINISTRATION OF THE TERRITORY.

M. GIRAUD asked how the Governor exercised control over the territory. Was there any particular organisation which had to inspect various parts of the territory periodically ?

Mr. MACKENZIE-KENNEDY said the Governor himself was continually inspecting the administration in the territory, and this was also part of the duties of the Chief Secretary. The Provincial Commissioners were directly responsible to the Governor through the Chief Secretary, and were themselves inspectors in their own district. Every departmental head was encouraged to travel about the territory and inspect his own officers and discuss matters with the Provincial officers.

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<sup>1</sup> See page 140.

PUBLIC FINANCE : TAXATION : PLURAL WIVES TAX.

M. RAPPARD congratulated the mandatory Power on the successful results of the financial year (page 35 *et seq.* of the report). He noted that the improvement in the previous year had been continued. Last year, the Commission had asked whether measures had been taken to associate the natives with the increased prosperity.<sup>1</sup> The report answered the question in general terms, which were, however, quite satisfactory to him.

He noted that the prosperity of the public finances was such that a reserve fund of £100,000 had been established, and that it was proposed to set aside a further £100,000 for this fund (pages 36 and 38 of the report). The revenue from the fund, together with previous savings, gave an income of some £50,000 a year. At the same time, however, the interest charges on the Territory's public debt were still increasing. M. Rappard would like to have some information regarding the relationship between the following four factors : (1) the amount of the debt, (2) the interest charges, (3) the amount of savings, (4) the amount of revenue from those savings.

The interest payable on the loans was about 4½ %, which was undoubtedly a higher rate than could be obtained on the savings (pages 46 to 48 of the report). Was there any way of reducing the debt charges ? Even a reduction of 1 % would amount to about £55,000 a year. It was obviously unsatisfactory to pay 4½ % and to receive only about 3 %.

Mr. MACKENZIE-KENNEDY said that, fundamentally, the only way would be to accelerate the rate of redemption of the loan, but there was no provision for that.

M. RAPPARD asked whether the loans were quoted on the Stock Exchange ? If so, the Administration could purchase the bonds, unless they were considerably above par.

Mr. MACKENZIE-KENNEDY said the loans were publicly issued, and he presumed they were above par.

M. RAPPARD thought the matter was of great importance to the finances of the Territory. Loans of this kind brought in, say, £5,000,000 at one time, of which only a portion could be used. Could not some other method be found to avoid paying interest on the unused amount ?

Mr. MACKENZIE-KENNEDY said it was not proposed to raise money until it was actually required for remunerative work. No loans would be raised at all where expenditure could properly be covered by revenue, except where the loan would be reproductive.

A discussion was taking place at present with the Treasury, in which the General Manager of the railways, the Financial Secretary and himself, were participating, in the matter of loans and funding of the Exchequer debt.

M. RAPPARD said the Administration had been unfortunate, since it had borrowed at a time when money was dear, and had built up a reserve when money was cheap. He did not wish to give advice, but if money had to be borrowed in bad times, it would seem the wisest course to borrow for the shortest possible time.

Lord HAILEY said that in India, rather than issue long-term loans in unfavourable circumstances, the Government had preferred to raise money on 5-year or 10-year bonds, even at a high rate of interest.

M. RAPPARD welcomed the note in Appendix III (page 199 of the report) on the subject of income tax. He was not quite convinced by the arguments set forth. He understood that the Administration showed no alacrity to introduce an income tax, in view of the high cost of assessment and collection and the small amount of revenue that would be obtainable. He was not sure, however, that it was wise to base the discussion so exclusively on the precedent of Kenya. Kenya and Tanganyika were very different territories, and he thought that if an attempt had been made to draft an income tax law adapted to the requirements of Tanganyika, a different conclusion might be reached.

He noted the statement on page 200 of the report that there were few large and prosperous companies operating in the Territory, and that such as existed were nearly all directed from Kenya, maintaining branch offices only in the Territory. In those cases did the entire revenue go to Kenya ?

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 189.

Mr. MACKENZIE-KENNEDY said no revenue was obtained from such companies operating in Tanganyika, since the non-native poll tax was a tax on individuals.

M. RAPPARD thought it was a serious matter that the absence of income tax deprived the Administration of revenue from firms making profits in the Territory, but having their head office for fiscal purposes outside. Would it not be possible to introduce a special tax for this purpose?

Mr. MACKENZIE-KENNEDY said very few big outside companies worked in Tanganyika, with the exception of the gold companies, which were subject to royalties. It would hardly be worth while to introduce special measures for the other firms. The point had, however, been noted.

M. RAPPARD noted a passage on page 200 of the report to the effect that one objection to income tax was the difference in the situation of the white colonists, who had to send their children to Europe, and the Asiatic colonists, whose children could remain in the Territory. He did not know of any financial system in which such an objection would be taken into account. It was a very legitimate feeling on the part of the white colonists, but he wondered whether it was not such considerations that led the Administration to reject the idea of income tax.

Mr. MACKENZIE-KENNEDY said the suggestion in question had not been made by the white settlers; the idea originated with the Administration.

The Tanganyika Administration fully realised the unscientific nature of the present system of taxation. Its view was merely that the time had not yet arrived to introduce an income tax, on account of the difficulty of collection and the small revenue which would be obtained. He must make it clear that His Majesty's Government in the United Kingdom held the view that the income tax system provided the only fair form of taxation, and it was part of His Majesty's Government's financial policy to introduce it wherever it was found expedient.

M. RAPPARD said he had not spoken in a critical spirit. He paid a tribute to the clear and enlightening chapter on public finance.

Lord HAILEY asked for information regarding the item "Subventions", on page 43 of the report.

Mr. MACKENZIE-KENNEDY said that this item was formerly included under miscellaneous services. It consisted of a large number of grants for agriculture, entomological research, meteorology, tropical diseases, etc. These items had now been grouped together under the one heading "Subventions".

Lord HAILEY asked how much of this amount went to Europe, and how much was devoted to objects in the Territory?

Mr. MACKENZIE-KENNEDY said naturally a good deal went out of the Territory, but he hoped it came back in some other form.

Lord HAILEY asked whether any decision had been reached with regard to the removal of the taxation on Plural Wives.

Mr. MACKENZIE-KENNEDY said the plural wives tax had been abolished in the Western Province and in several other districts. The Government had issued instructions that the tax was to be abolished all over the Territory as soon as the provincial Commissioners could make other arrangements without undue loss of revenue.

Lord HAILEY thought the Commission could be satisfied so long as the Government was adopting the right principle.

M. RAPPARD asked what was the objection to the plural wives tax. He realised it was not scientific, but surely it was some indication of the taxpayer's capacity.

Lord HAILEY suggested that the case against the plural tax was that wives could in some circumstances constitute a liability rather than an asset. If a man had a number of young wives who could work for him, they might constitute an asset, but if he inherited a number of aged widows, they would be a liability. Again, with the growth of modern methods, such as ploughing, less use was made of women's labour.

Mr. MACKENZIE-KENNEDY had never been able to see any valid argument in favour of the plural wives tax. He was familiar with the argument that wives were an index of wealth, but did not agree with that view in most cases. Wives made demands on their husbands in modern times for clothes, adornment, extra houses and so on. Furthermore, the native resented his wife being regarded as a taxable chattel.

Lord HAILEY pointed out that according to a domestic budget given in one of the Provincial Commissioner's Reports for 1937, the taxes would appear to be in some cases out of all proportion to income, for instance, 10s. on a family income of 26s. Did the accredited representative accept those figures as at all normal, and if so, what was to be done about it?

Mr. MACKENZIE-KENNEDY did not altogether accept Lord Hailey's figures. At the same time, the present system of taxation was unsound, and had very little relation to the individual taxpayer's capacity. It was being replaced, by way of experiment, in one or two selected areas, by a system of assessment carried out by the natives themselves under the supervision of the District Officers. The Administration hoped to be able to report in 1939 or 1940 that the experiment had been successful. It would then be extended to other districts.

Lord HAILEY thought the Commission would be glad to know that the Administration was experimenting with improved methods.

#### ECONOMIC SITUATION : IMPORTS AND EXPORTS : AGRICULTURE.

M. GIRAUD expressed satisfaction at the very full and interesting information furnished not only in the general report but also in the large number of other special reports communicated to the Commission. These various reports constituted highly valuable documentary material, and it would be a good thing if many more of them were available from mandated territories.

As regards the economic situation, it should be remembered that the wealth of the country was based mainly on agriculture, since the production of gold only accounted for about a tenth of the value of exports (page 67 of the report). Owing to the diversity of climatic zones, atmospheric conditions in general in Tanganyika varied in different districts, and from the point of view of the crops, these conditions were rarely satisfactory everywhere at the same time (page 158 of the report). In 1937, therefore, agricultural production was more or less flourishing according to the district, but in general the position was satisfactory, and progress had been made as compared with the preceding year. Exports of agricultural products increased in weight by 8%, mainly owing to sisal of which 10,000 tons more had been exported in 1937 than in 1936 (page 66 of the report). Prices had been favourable during the first six months; they had unfortunately declined in later months in the case of all products except grain and tea (page 27 of the report). Sufficient foodstuffs had been produced to meet the needs of the natives. But the health condition of live-stock, particularly in the South and in Lake Province, left much to be desired (pages 27, 164 and 165 of the report).

As regards industrial production, there had been an increase in weight of 8% in exports of gold, as well as an increase in mineral exports, but exports of tin showed a slight decline. Important rope factories having been closed during the year, exports of rope had been reduced by over three-quarters. The figures for foreign trade were the highest ever recorded. Imports had increased by over 18% (page 27 of the report) and exports by over 10%, so that the visible trade balance was still just as favourable. There had been increased activity on the railways and in shipping, posts and telegraphs. The savings banks had more depositors and higher deposits.

The situation in 1937 was therefore very favourable on the whole. On the other hand, the report stated that, at the time of drafting, the economic outlook appeared to be less favourable; there was even some fear of a famine in the Lake Province (page 28 of the report) and, furthermore, prices were inclined to fall.

M. Giraud was grateful for the information regarding the rope factories (page 72 of the report) and the sugar production (page 163 of the report), in reply to his questions at a previous session.<sup>1</sup>

He noted that according to the table on page 56 of the report, the imports from Kenya and Uganda amounted to £363,000, while according to Annex V (page 203), the same imports amounted to £290,817. As regards the exports to Kenya and Uganda, the table on page 62 gave the figure of £794,000, while the total given in Annex V only amounted to £207,317

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 23 and 24.

(page 204 of the report). He wondered whether the considerable differences between these two sets of figures might be explained by the fact that the figures in the Annex referred only to local products obtained in Kenya and Uganda, and goods actually consumed in those territories, and took no account of commodities passing through in transit.

Mr. MACKENZIE-KENNEDY observed that the table on page 204 of the report was stated to be incomplete, owing to the omission of small miscellaneous items. He was not in a position to confirm M. Giraud's suggestion as to the reason for the difference, but would obtain the necessary information. The two sets of tables seemed to have been prepared at different times.

M. GIRAUD referred to the tables on pages 66 and 67 of the report, showing the main exports in quantity and value for the past five years. There were other products which were perhaps of sufficient importance to be included in those tables. For instance, tea, sugar and ivory. He asked whether it would be possible to include these articles in the tables in question in future.

Mr. MACKENZIE-KENNEDY took note of the suggestion.

M. GIRAUD noted the steady increase in exports of rice (page 66 of the report), which went mostly to Kenya (page 62 of the report). It would seem very desirable, *a priori*, to develop rice production on account of the potential market for this commodity in the neighbouring colony.

Mr. MACKENZIE-KENNEDY said the question of developing rice production was under continuous consideration by the Director of Agriculture. The road under construction from Kilosa to Ifakara was intended—*inter alia*—to facilitate the export of rice (page 179 of the report).

M. GIRAUD recalled that attention had been drawn in the previous year<sup>1</sup> to the inadequacy, from the point of view of the purchasing power of the natives, of imported goods on sale in the stores. According to page 27 of the report, the situation would appear to have improved in 1937. Had there, in fact, been an appreciable improvement?

Mr. MACKENZIE-KENNEDY said the improvement in question was very slight. He had been severely criticised for speaking so freely. He still thought, however, that greater progress in this respect could be made in the future.

M. GIRAUD noted that, in 1936 (see page 54 of the 1936 report), motor spirit had been imported from Roumania to the extent of £2,771. In 1937, there were no imports of motor spirit from Roumania, but increased quantities had been imported from Iran (page 59 of the report). Was there any special reason for this change in the source of supply?

Mr. MACKENZIE-KENNEDY did not know the reason. It was certainly not due to any Government action. He hoped to give further information in the next report.

M. GIRAUD repeated that some anxiety was expressed in the report regarding the future economic situation. Was there any later information to confirm that impression?

Mr. MACKENZIE-KENNEDY said that according to information just received the position was now more hopeful. The crops were likely to be satisfactory, though not so good as the previous year. He could say nothing as to future prices.

#### JUDICIAL ORGANISATION : PRISONS.

M. VAN ASBECK noted the reference in the Governor's address (page 198 of the report) to means of obviating unnecessary delays in the administration of justice. Had those measures been successful?

Mr. WHITLAMSMITH said there had not yet been time to judge of the effect of the changes.

M. VAN ASBECK asked who were the members of the subordinate courts (pages 17, 76 to 78 of the report).

Mr. WHITLAMSMITH said that subordinate courts were held by British officers, with or without assessors.

In reply to a question regarding native subordinate courts, he said these were presided over by native magistrates and assisted sometimes by native elders.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 20.

M. VAN ASBECK noted with satisfaction the measures taken to deplete the prisons (pages 79 and 80 of the report). He was grateful for the information in the report concerning the option given to prisoners to undertake unpaid work outside the prison.

He also observed that the training in agriculture of long-sentence first offenders was being continued and that the experiment appeared to be successful (page 79 of the report).

Juvenile offenders were apparently sent to approved schools for training (page 77 of the report). Was the training of an agricultural nature ?

Mr. WHITLAMSMITH said that the training consisted mainly of handwork, such as joinery.

Mr. MACKENZIE-KENNEDY said there was also a prison garden where the youths could learn agricultural work.

M. VAN ASBECK asked whether it was the custom of native courts to treat offences rather as torts, and as far as possible not to sentence persons to imprisonment (page 76 of the report).

Mr. WHITLAMSMITH said the tendency of native courts was to treat offences as civil cases, applying compensation and not penal sanctions.

M. VAN ASBECK observed that it appeared from the annual report of the Judicial Department for 1937 that there were sixty-eight capital sentences during the year.

Mr. MACKENZIE-KENNEDY said this number, out of a total population of 5 millions, might be considered high or low according to the view held. There were, however, one or two tribes which regarded murder as a pastime.

M. VAN ASBECK asked whether in cases of murder compensation was applied in addition to penal sanctions.

Mr. MACKENZIE-KENNEDY replied that murder cases were tried by British courts which did not provide for compensation.

M. VAN ASBECK observed that in South West Africa compensation was given in order to keep within the framework of native custom.

Mr. MACKENZIE-KENNEDY said that, in certain cases where natives were acquitted of murder, the native courts had taken action and given compensation to the relatives of the deceased.

M. VAN ASBECK noted that, according to the report (page 79) the Blue Book for 1937 contained further detailed criminal statistics. This document had unfortunately not been received. Moreover, the reports of the Provincial Commissioners had only reached him a few days ago. Would it be possible to obtain those publications earlier ?

Mr. MACKENZIE-KENNEDY said there was considerable difficulty in printing the Blue Book before the third quarter, but there should be no difficulty in supplying the Provincial Commissioner's reports earlier.

#### POLICE.

M. SAKENOBE noted that the establishment of the Police Force was the same in 1937 as in 1936, except that the native detective staff, who were previously regarded as a separate unit, were now included as regular members of the Force (page 83, paragraph 100, of the report). What was the reason for the change ?

Mr. MACKENZIE-KENNEDY said the change was effected in order to bring the activity of the police and allied forces under the closer control of the Commissioner and his immediate staff.

M. SAKENOBE noted, in reply to a question asked last year,<sup>1</sup> that progress in raising the standard of literacy had been slow on account of the difficulty of securing the services of suitable teachers (page 85, paragraph 102, of the report).

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 37.



Mr. MACKENZIE-KENNEDY said it was still very difficult to obtain teachers, but the difficulty was gradually disappearing.

M. SAKENOBE hoped that in due course the education of the police would be improved in the manner described in paragraph 102. He noted from paragraph 101, page 84, and paragraph 20, page 12, that the police and military police had been employed in connection with cattle raids by the Masai and kindred tribes, and that the police and air forces were employed during the disturbances in the coffee-producing areas at Moshi and Bukoba. He was glad to see from the report that the African police behaved with commendable discipline and restraint (page 11 of the report). Had the police and troops been employed on any other occasion ?

Mr. MACKENZIE-KENNEDY desired to correct a misunderstanding implied in the question. There were no military police in Tanganyika but only a civil police force and a military force. The Civil police force was used at Bukoba and Moshi. Small outbreaks of lawlessness following upon beer-drinkings and occasions of that kind were always settled by the civil police. These little local disturbances were not considered worthy of mention in the report : they were part of the ordinary life of the people.

M. SAKENOBE noted from page 42 (Expenditure) that there had been no substantial increase in expenditure on Police, whereas expenditure on Military, which amounted to £94,984 in 1936, was estimated at £102,579 in 1937. Was this because the brigade had moved about more during the year ? He noted that a brigade camp of exercise had been held for the first time since the Southern Brigade was formed in Tanganyika (page 86, paragraph 104, of the report).

Mr. MACKENZIE-KENNEDY said the movement of the brigade accounted for a small part of the increased expenditure. Most of the increase was due to reorganisation and the replacement of equipment, modernisation and so on.

M. SAKENOBE asked whether Lord Hailey's suggestion that the Administration might consider the alternative policy—which had been followed elsewhere—of substituting armed police for some part of the military forces had received attention.<sup>1</sup>

Mr. MACKENZIE-KENNEDY said the Government had given and would always give, the fullest possible consideration to this suggestion, but no action had yet been taken on it, nor could he guarantee that action would be taken at the present time.

#### LAND TENURE : ALIENATION OF LAND.

Lord HAILEY asked if it would be possible to give in a future report up-to-date figures of total alienations in the Territory, including freehold alienations by the Germans and the subsequent leasehold alienations by the mandatory administration.

Mr. MACKENZIE-KENNEDY took note of this request.

#### LABOUR : CONDITIONS IN THE LUPA GOLDFIELDS.

Lord HAILEY did not wish to encroach on Mr. Weaver's subject, but was glad to note that a Committee had been appointed to make an enquiry into labour conditions in the Territory—none too soon, in his opinion (page 88 of the report). It had been found that the Administration required machinery for exercising greater control over the labour situation in the Territory.

How far could conditions in the Lupa Area be taken as an indication of the way in which welfare labour questions had been handled elsewhere in the Territory ? He recognised that important steps had now been taken to improve sanitary and similar conditions there. Could the accredited representative tell the Commission from his personal knowledge what had happened under the new arrangements in the Lupa Area (pages 96 to 98 of the report).

Mr. MACKENZIE-KENNEDY said there was some misconception as to the Lupa Goldfield. Contrary to press reports, it was not a gathering ground for every conceivable kind of ne'er-do-well. Like any other alluvial goldfield, it had its black spots and " bad hats ". But taking it by and large, it was a community of law-abiding people who were most anxious to do the right thing. From the nature of their occupation, they were not always able to do the right

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 37.

thing at the right time, however. They were very often helped to postpone the day of payment or the improvement of conditions by the attitude of the employee himself, who was a gambler, anxious to participate in the rather interesting and amusing work of alluvial gold washing, content to take his bonus in good times and to wait for his pay in bad times. Generally speaking, the alluvial peripatetic digger—for he was not referring to the mining companies established on leasehold properties, of whom there was no cause for criticism—was a very ordinary person, who wandered round accompanied by twenty or thirty boys, looking for gold.

Assisted by a Control Board (page 29 *et seq.* of the report) consisting of representative diggers, the Government was doing its best to clean up the field and to remove its worst and most criticisable features. The Control Board had been working very well during the past year, owing to the renewed activity of the Board itself. As the Commission was aware, the Board had certain functions (pages 30 and 31 of the report) : it had power to recommend and effect the removal from the field of any person considered to be undesirable. It had very wisely seen for itself that to expel a digger who owed money to his labour was not the best way of getting that labour paid. The digger was therefore given a chance : his name was put on a list, and he was made to pay up as money came to him. This money was then distributed to the persons to whom it was owing. Successful attempts by Government to carry out effective sanitary measures were being supported, and, indeed, in some cases anticipated, by those diggers who had been able to settle down on an alluvial lease, and there was a growing feeling that a concerted effort must be made to remove all grounds for criticism.

Mr. Mackenzie-Kennedy himself had been much impressed by the keenness, willingness and effective co-operation of the diggers in their attempts to make the field something more than a dumping ground for undesirables.

He could assure the Commission that the Government had realised the need for taking such steps as were possible and desirable : the results would be found in the report.

Mr. WEAVER said the impression that everything was not right in the Lupa Goldfield was derived not only from the public press and private writers, but also from the previous reports of the mandatory Power. He himself, and, he thought, the members of the Commission, were under the impression that the steps taken by the Government to control the area, particularly in regard to medical arrangements, sanitation, etc., occurred at a somewhat late stage. He was glad to see from the present report, however, that the situation had improved considerably (page 97 of the report).

Was the accredited representative satisfied that the medical and sanitary arrangements were now as they should be ? Were they of such a nature, for instance, as to prevent those outbreaks of diseases, such as scurvy, which were brought to the Commission's notice at the last session ? He had read in a report by the Provincial Commissioner for Northern Rhodesia in 1936 that there was a great deal of scurvy among the returning Northern Rhodesian natives who had been employed on the Lupa Goldfield.

Mr. MACKENZIE-KENNEDY said the Government was not satisfied yet. There was still much to be done before it could be at all complacent about the labour areas, including the Lupa. Further progress towards the goal would be attained every year as means allowed and opportunity served.

Mr. WEAVER was glad that the Government was now fully alive to the dangers of the situation and was doing all it could. He did not think he would be justified in pressing his point further.

It was very gratifying that increased measures were being taken for the recovery of unpaid wages, but he noticed in a statement in the *Crown Colonist* of October 1937 that, while in the aggregate a considerable sum known to the authorities was due and unpaid in 1937, responsible men on the field were inclined to think large unknown sums were owing. Was there any truth in that suggestion ?

Mr. MACKENZIE-KENNEDY thought there was very little truth in it. The Labour Officer on the Lupa was by now so well known to every native working in that rather limited area that unless a native wilfully left with money owing to him, it was most unlikely that the amounts owing were unknown. The officer in question, who was peripatetic, had the confidence of the natives and kept what he called a " subscribers' list " of defaulting wage-payers.

Mr. WEAVER said that in his report the Provincial Commissioner for the Southern Highlands Province admitted that cases did occur, and offered the explanation that, in spite of repeated advice, labourers had not reported the non-payment of wages. Some of them preferred to go home and to come back later for the money, when the employers were able to pay. Some even accepted I.O.U.'s.

Mr. MACKENZIE-KENNEDY said what he had had in mind was large sums unknown to the Government.

Mr. WEAVER noted from the bottom of page 96 of the report that the labour camps at Lupa Market and Mwambani were completed early in the year. Were those camps utilised to any great extent by labourers proceeding to the goldfield ?

Mr. MACKENZIE-KENNEDY said the figures were given in Appendix IV (page 202 of the report).

Mr. WEAVER asked whether medical inspection was carried out in these camps.

Mr. MACKENZIE-KENNEDY said a dresser was attached to each camp and a peripatetic medical officer covered the whole field.

Mr. WEAVER asked whether any attempt was made to secure the medical examination of the natives before they began work, in order to ensure that they were reasonably fit for the kind of work they were going to do.

Mr. MACKENZIE-KENNEDY said most of the alluvial labourers were voluntary workers, who first obtained permits and then looked for work themselves. There would be great difficulty in arranging for medical examination until such time as the diggers could be anchored to alluvial leases. There was no arrangement which could be called satisfactory at the present time.

Mr. WEAVER said that was the reason for his previous question about the camps. Could not arrangements be made for some form of medical inspection when the labourers came through the camps ?

Mr. MACKENZIE-KENNEDY said it would be easy to arrange for some sort of medical examination. Owing to the number of labourers, on the one hand, and to the shortage of European medical staff on the other, however, it would be somewhat cursory, probably by African dressers, and there would be no guarantee that, after the examination, the rejected voluntary labourer would not still engage himself, behind everyone's back, to work for an employer. That was the difficulty in a field of this kind.

The CHAIRMAN remarked that, according to the accredited representative, it would be easier to organise more satisfactory medical inspection of labour if the miners could be given regular concessions. What prevented that from being done ?

Mr. MACKENZIE-KENNEDY said the obstacle was the digger himself. The Government was anxious that he should confine himself to a specified area for a certain period, and should use improved scientific methods. At the present time, however, he preferred to prospect from one place to another, day by day. He might be in one place one day, for instance, and twenty miles away the next. Some diggers were now settled in one place, and the Government hoped their numbers would increase.

The CHAIRMAN concluded from this that the sole difficulty in the way of organising effective control was that in this country the mines were exploited by wandering gold diggers, working alone on rule of thumb methods.

Mr. MACKENZIE-KENNEDY agreed. The prospector was a useful advance guard and had grown up with Africa during the last thirty or forty years.

Mr. WEAVER had been about to make much the same remark as the Chairman. There seemed to be a definite lack of control over both employers and workers throughout the area. He did not know how it could be remedied, except by the gradual process described by the accredited representative. However, in so far as the health and welfare of the workers was affected, he hoped that it would be found possible, in the course of time, to clean up the situation to a somewhat greater extent than had hitherto been possible.

Mr. MACKENZIE-KENNEDY said there had been an enforced lack of control, to use a contradictory expression. However, the Commission would be relieved to hear that control was being tightened up very rapidly by energetic administrative officers whose number had been increased. It was hoped to appoint another Inspector of Labour on the Lupa Goldfield in the near future to reinforce the excellent staff already there.

It was comforting to think that only 8% of the whole area had been worked by the diggers, so that although this area looked big on the map the problem was really somewhat limited.

M. RAPPARD desired, as he had made statements that might have hurt the feelings of the diggers, to say that he had no preconceived prejudices against them. In raising the question in 1937,<sup>1</sup> he had in mind that here was an area of a kind that was apt to attract persons not gainfully employed elsewhere and that, in spite of the efforts of the Administration, the situation left much to be desired. He had drawn the conclusion that this form of making a living did not attract the most desirable elements and was one cause of grave difficulty. He now heard that most of these people were law abiding. It was perhaps a mistake to speak in derogatory terms of a whole community: it was always a matter of proportion.

M. Rappard hoped the vigilant correspondent of the Rhodesian newspaper concerned would not imagine that the Mandates Commission or any of its members cherished any preconceived hostility towards any group in the Territory.

The CHAIRMAN drew the accredited representative's attention to certain criticisms in the newspaper *East Africa and Rhodesia* on January 6th, 1938. One of these criticisms read:

“Another requirement is improved service by the Mines Department, and, in particular, better provision for proper inspection of beacons. It is no exaggeration to say that the position in that respect is absolutely chaotic on the Lupa at present, and has been for years.”

The writer then complained of a lack of foresight and business acumen on the part of the Administration.

A second criticism related to the insanitary conditions said to exist in and around Chunya, and to entail a grave risk of the spread of disease, against which the diggers were said to have protested repeatedly.

Mr. MACKENZIE-KENNEDY thought the writer of the letter could not have had any very recent personal connection with the Lupa Goldfield. It was quite true that the sanitary conditions in the neighbourhood of Chunya were disgraceful at one time. That was when there was no township at all, however, but only an agglomeration of buildings. During the last year, the township had been laid out and a sanitary officer had been put in charge. Conditions, though not completely satisfactory, would very shortly be very much better. Thus, there was a basis for these charges if the time factor were ignored.

The first criticism was rather confused, if he might say so. In the sentence “The small reef miners had been greatly hampered in the past by the Administration's lack of foresight and business acumen in not rendering efficient financial help for the development of good propositions”, the writer was really suggesting that the Administration should gamble with public revenue in order to assist persons who had nothing but prospects. It was not true that the service by the Mines Department was chaotic. It was most efficient, as was acknowledged by the mining community.

It was natural that the Commission should form impressions, which had to be corrected, from letters of the kind published in *East Africa and Rhodesia*, which on a basis of truth gave a rather distorted picture of the situation.

Mr. WEAVER expressed his appreciation of the very full and frank chapter on Labour (page 88 *et seq.* of the report). The Commission had also before it the report of the Committee appointed to undertake a comprehensive examination of the problem how best to correlate labour supply with demand (paragraph 107, page 88). He had one or two questions to ask on the Committee's report, and in doing so would refer, for simplicity's sake, to the summary of recommendations (Chapter X, page 38).

The Committee recommended that minimum wage-fixing machinery should be established by law, and the Commission was told on page 106 of the annual report that this recommendation, together with others, was under consideration. Had the accredited representative any further information on that point?

Mr. Weaver must make a reservation with regard to the statement that “Pending the introduction of any legislation, Government is not in a position to intervene in connection

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 45.

with wages : nor indeed is there any present necessity for it to do so since, generally speaking, the African is not economically dependent on wage-earning, as are most members of an industrial community." He had had occasion to refer, on a previous occasion, to the basis of native labour wages. It did not seem to him right to base them on the consideration that the labourers had some private means of their own. What was the present position with regard to a minimum wage-fixing machinery ?

Mr. MACKENZIE-KENNEDY said the Law Officers of the Tanganyika Territory Government were drafting labour legislation at present. In that legislation would be found eventually an enabling ordinance giving the Governor statutory power to make orders. It was desired to bring all the new labour legislation on to the table of the Legislative Council at the same time.

Mr. WEAVER asked whether the accredited representative's statement covered the whole question of the new labour legislation.

Mr. MACKENZIE-KENNEDY replied in the affirmative.

Mr. WEAVER said he did not intend to refer to contract proposals, because as far as he was concerned that question was under discussion. He saw that various recommendations had been made for tightening up control over recruiting, however, and that it would be one of the functions of the new Chief Inspector of Labour to co-ordinate by advice the recruiting activities of the employers' organisations. What was meant by "advice" ? Were the functions of the new Inspector to be purely advisory, or was he to have some definite executive authority ?

Mr. MACKENZIE-KENNEDY said the new Labour Inspector would certainly have executive powers with regard to recruiting. The word "advice" had been stressed all through the report because of the very marked desire among employers of labour to get together and adopt methods acceptable to the Government, methods in accordance with modern practice and opinion. It was felt that the Chief Inspector would do very much more to begin with by tendering advice than by bringing the iron hand down on persons who might be entirely ignorant of what they should do.

Mr. WEAVER said that met his next question to some extent.

He had been struck by the phrase "employers' organisations", because as far as he was aware there were no employers' recruiting organisations at the present time. He noted that 114 permits to recruit were issued during the year (page 99 of the report). It was certainly the opinion of some people with experience of conditions in the mandated territory that a good deal of trouble with regard to recruiting had arisen because there were so many recruiters and no central organisations. Was it the policy of the Administration to encourage the formation of responsible employers' recruiting organisations to replace the professional recruiter—the man who lived to some extent on buying and selling labour, to put it in a rather extreme way ?

Mr. MACKENZIE-KENNEDY said that was emphatically the Government's policy.

Mr. WEAVER was glad to hear this.

He asked whether any steps had yet been taken to introduce legislation dealing with the situation in ginneries. The Labour Committee had made strong comments on the situation of these cotton ginneries, and he would be interested to know whether the matter was regarded as urgent.

Mr. MACKENZIE-KENNEDY said it was regarded as urgent.

Mr. WEAVER said that also was very satisfactory.

After the accredited representative's remarks, it would be ungracious of him to stress the situation in the Morogoro area (paragraph 109, page 89, of the report). As a result of a great shortage of labour, employers had apparently recruited large numbers of men from the other end of the territory without any kind of supervision. In their anxiety to obtain men, Haya, Ha, Rundi and Nyaruanda were recruited during the early months of the year, people who were unaccustomed to the conditions in the Morogoro area, people with whom the employers themselves were unaccustomed to deal. As a result, those people soon fell victims to nutritional diarrhoea and other dietetic diseases, and there was a very heavy death rate and considerable sickness. The measures subsequently taken were described, and he had nothing to add about them. They did show, however, the importance of control over recruiting. Was the situation now completely cleared up ?

Mr. MACKENZIE-KENNEDY said the situation at Morogoro had been completely and satisfactorily cleared up, according to his latest information, with the full co-operation of all the employers. The latter had themselves welcomed the tightening of control over recruiting, and had, indeed, been the chief complainants.

Mr. WEAVER said there seemed to have been some sickness as a result of the slackening of recruiting regulations in another area (paragraph 114, page 94, of the report). The Kigoma district, which was closed to recruiting owing to an outbreak of cerebro-spinal meningitis, was partly reopened to recruiting agents in March, and fully opened (subject to certain restrictions) in May. Those restrictions, which also applied to the rest of the province, were connected with local quarantine and other measures intended to prevent the spread of sleeping sickness. It was reported, however, that many Ha managed to evade all restrictions and made their own contracts with employers. The total number of recruits attested in the province during the year was 8,800. Why, in view of the need for continuing with the restrictions, was the area opened to recruiting at all? Was not that a case in which the limitation of recruiting should have been continued for a longer period, in order to prevent evasion of the modified restrictions?

Mr. MACKENZIE-KENNEDY said the complete closing of the Western part of the Province to recruiting led to the almost complete evasion of all regulations. There was a very long frontier, and once recruiters were withdrawn, the natives—who were fond of work—went across themselves to look for work, struggling and starving, and taking their diseases with them. It was therefore thought better to let in some reputable recruiters and to allow a certain amount of recruiting. The difficulty then arose that controlled recruiting was accompanied by a medical examination, but the rejected labourer promptly went twenty miles away and struggled through, just the same, to an area where he was not known, to engage himself as a voluntary labourer.

Mr. WEAVER presumed labourers who evaded the recruiters and restrictions did not follow the usual routes.

Mr. MACKENZIE-KENNEDY agreed. They went across the marshy country north of the railway, and other desert routes.

Mr. WEAVER asked whether they could be collected anywhere on the other side. The Tanganyika authorities had always tried to canalise labour along certain routes, and camps were provided to receive them.

Mr. MACKENZIE-KENNEDY said that would be very difficult, because by the time they reached the centres of employment, they would have lost their identity as natives from the restricted area. In his opinion, controlled recruiting was the only answer.

M. VAN ASBECK asked whether the Government had power, under the existing legislation, to warn recruiters whose activities had proved unsatisfactory, and eventually to suspend their permits.

Mr. MACKENZIE-KENNEDY said the usual permit was for a year, or for such period as the issuing officer determined, sometimes three months. Permits had been issued to certain recruiters for this limited period, with a warning that if their habits did not improve, they would not obtain another permit.

M. VAN ASBECK asked whether a year was the maximum period.

Mr. MACKENZIE-KENNEDY replied in the affirmative.

#### WATER LEVEL OF LAKE TANGANYIKA.

The CHAIRMAN presumed the accredited representative was aware that a hitherto unexplained physical phenomenon was taking place in Tanganyika—a rise in the water level of Lake Tanganyika.

Since the discovery of Tanganyika, the water level had gradually fallen, leaving dry fairly large stretches of land formerly under water, as the explorer Cameron had observed. The site of "Livingstone's tree" at Ujiji, formerly on the side of the lake, was later found to be some distance away.

For the past few years, the water level had risen steadily. It already covered certain cultivated lands and inhabited areas.

Had a similar situation arisen on the west side of the lake? Had the use of certain ports been hampered, or had native villages had to be evacuated?

Mr. MACKENZIE-KENNEDY said no such consequences had been brought to the attention of the central Government by the Provincial Commissioner of the Western Province during the last two years, the only period of which he himself had personal knowledge.

He had heard of the phenomena, but had no scientific papers with him to which he could refer. It might interest the Chairman to know that Lake Nyasa had been behaving in the same way. The rise in the level of the water had led to the abandonment of certain offices and a hospital at Port Mwaya at the northern end of Nyasa during the last two years.

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#### SIXTEENTH MEETING.

*Held on Saturday, June 18th, 1938, at 10.30 a.m.*

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#### **Tanganyika Territory : Examination of the Annual Report for 1937 (continuation).**

Mr. Mackenzie-Kennedy and Mr. Whitlamsmith came to the table of the Commission.

#### MISSIONS.

M. PALACIOS said that the report dealt on page 119, paragraph 138, with the question of missions. It contained a list of missionary societies working in the Territory, the number of which was the same as in 1936. It was stated that relations between the missions and the population had continued to be good. The report referred for additional information to the Tanganyika Blue Book for 1936 (Section 16) and, as far as educational and medical work was concerned, to the relevant chapters of the annual report.

It was to be noted that the Blue Book for 1937 had not yet been received and it was therefore not possible to judge the situation in the year under examination.

In Section 16 of the Blue Book for 1936 (pages 130-132) the returns of the estimated total number of followers of each mission were given, and, in addition, the names and situation of churches or chapels and the amount of assistance given to missions from public funds, as well as various other information contained in the column headed "Remarks". It appeared that several missionary societies had not received any assistance from public funds.

What was the reason for the fact that no assistance was given to them ?

Mr. MACKENZIE-KENNEDY replied that there was no discrimination or favour shown to missions, except in so far as they could produce a type of teacher equal to, or better than, that which the Government considered to be the minimum standard. The criterion was therefore educational, and not of a confessional character.

It was not to be assumed, however, that missions which received no subsidies did not engage in educational activities. Some of them did not attain the minimum standard.

M. PALACIOS said that, in 1937,<sup>1</sup> reference was made to a dispute between a body of natives in the Bukoba district and the Missionary Society as to the ownership of a large tract of land. The accredited representative had stated that he was under the impression that the dispute had been settled, but that mention would be made in the next report. As the report for 1937 contained no information on this particular point, could the accredited representative confirm what had been said last year ? Had the dispute now been settled, and did it bear any relation to the disturbances which, according to the report (pages 11 and 15), had occurred in that district ?

Mr. MACKENZIE-KENNEDY said that the dispute had recently been settled by the High Court in favour of the mission. The Bukoba disturbances had no relation to that dispute and were due to the factors which he had set out at an earlier meeting.<sup>2</sup> The two chiefs who, as stated in the report, had been deposed, were in fact unsatisfactory individuals, and their deposition was not related to the dispute with the mission.

M. VAN ASBECK recalled that in other Territories the complaint was sometimes made that missionary activities tended to be disruptive of native customs. Was that tendency marked in Tanganyika ? Did the missionaries understand the nature of the conflict between Western and native thought ? Did they receive some training in anthropology ?

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 46 and 47.

<sup>2</sup> See page 140.

Mr. MACKENZIE-KENNEDY replied that there was nothing more in that sense than the normal impact of Western influence, though some young missionaries might occasionally be a little over-enthusiastic. Relations between the missions and the natives were harmonious and entirely normal. Some missionaries had considerable knowledge of anthropology, but he did not know if they received training in that science. He thought that the missionary societies in Tanganyika were thoroughly aware of all the problems facing them in the Territory.

#### EDUCATION.

The CHAIRMAN submitted the following observations and questions on behalf of Mlle. Dannevig, who had been obliged to leave Geneva before the end of the session.

The first related to the small proportion of children of school-age who attended the registered schools, and the still smaller proportion who attained a standard enabling them to become vernacular teachers or artisans (page 124 of the report). Although the sums spent on education were slowly increasing, they still constituted only a small fraction of the total revenue. According to the report (page 123), the amount spent on native education was actually decreasing. What were the reasons for that decrease? Did the accredited representative consider that a sum of 3*d.* per head per annum spent on the education of the African population represented the maximum that could be done?

Mr. WHITLAMSMITH replied that that average was all that the Administration could afford in view of the claims of other public services.

Mr. MACKENZIE-KENNEDY added that a reconstruction of the budget had recently been carried out in order to obtain a large reserve within the budget itself. This had had the effect of widening the gap between revenue and expenditure. But the figures for 1938 did not completely represent the intentions of the Government in the matter of education. As a footnote on page 123 of the report indicated, there was a good deal of technical training carried out by the police, agriculture, posts, prisons and other departments. The exact cost of that training could not easily be determined.

Lord HAILEY referred to a recent recommendation by a Committee sent out by the Colonial Office that a University should be created in Uganda for the dual purpose of granting general degrees and of providing pre-vocational training. Was Tanganyika participating in that scheme?

Mr. MACKENZIE-KENNEDY replied that Tanganyika was contributing £100,000 to the Endowment Fund. The details of the organisation of the proposed college were still under discussion between the various parties, including a delegate from the Territory. Excluding the college in the Union of South Africa, this would be the only institution in the southern half of the Continent which would grant degrees.

The CHAIRMAN recalled that in reply to an observation by M. van Asbeck,<sup>1</sup> it had been said that the standard of education of the natives did not qualify them for posts in the Administration. The opening of the new college would no doubt lead to a change in the situation.

Mr. MACKENZIE-KENNEDY concurred.

M. RAPPARD said that he had been struck by the wording of the opening sentence of paragraph 145 (page 124) of the report concerning the small number of children of school-age who attended the registered schools or mission schools. The proportion attending Government schools was less than 3%—a situation which could not be considered satisfactory. No doubt financial considerations weighed heavily, but in view of the proposal to create a reserve fund of £100,000 a year, they could not be considered as decisive. Was some question of personnel perhaps involved? What was the mandatory Power's opinion concerning the future of primary education?

Mr. MACKENZIE-KENNEDY said that he wished to be perfectly clear about the intentions of the mandatory Power. The Education Department had only been in existence for about twelve years, which included several years of economic depression. Advance was sought on two fronts: the general front or mass schooling, and the restricted front or training of selected apt pupils. The second type of education was designed to provide teachers, but there were not nearly enough as yet, and the Administration was accordingly concentrating its efforts in that

<sup>1</sup> See page 138.



direction. The Government was, however, inclined to agree with the dictum that for every pound spent on education at least ten pounds should be spent on the improvement of the living conditions of the natives. There was a definite trend towards raising the community's standards of life, of which education in the narrow sense of schooling, only formed one part. It was also the policy of the mandatory Power to make full use of the facilities afforded by the mission schools, and not to attempt to replace them by Government schools, though Government schools there must be.

The CHAIRMAN pointed out that paragraph 154 (page 129) of the report dealt with the development of girls' schools, which was frustrated by the lack of trained African women teachers, while the system of pupil-teachers had been adopted as a merely temporary arrangement. Was it intended to introduce a better system by creating Government training schools or by increasing the subsidies paid to mission training schools ?

Mr. MACKENZIE-KENNEDY replied that it was not intended to adhere to one single system, at any rate until the new supervisor of female education—for whom provision was made for the first time in the current budget—had had time to study the position and to recommend improvements in a system which was admittedly imperfect.

The CHAIRMAN referred to paragraph 160 (page 135) of the report, dealing with Indian education, and asked whether the increased number of assisted Indian schools now afforded sufficient facilities for Indian children in need of education ?

Mr. MACKENZIE-KENNEDY replied in the negative, but added that the existing facilities represented a fair share of the available resources.

M. SAKENOBÉ observed that the report (page 135) spoke of language difficulties in the teaching of Indians, due to the fact that Urdu parents would not allow their children to be taught in Gujarati. Did not further difficulties arise owing to the fact that Moslems and Hindus were taught in the same schools ? Did not the difficulty of training teachers prove particularly acute in that connection ?

Mr. MACKENZIE-KENNEDY said that a distinction must be made between the two types of Moslems—namely, the Ismailia, who had their own separate schools, and the other Moslems, who in some cases shared schools with the Hindus. The language difficulty was real but there was no religious conflict as far as he knew.

As for the training of teachers for African schools, there was a training school at Mpwapwa, and a new college was being built at Mwanza in the North.

#### ALCOHOL AND SPIRITS.

M. SAKENOBÉ congratulated the mandatory Power on the really remarkable progress achieved under this heading (pages 138 to 140 of the report). He recalled that the Commission had, at its thirty-first session,<sup>1</sup> submitted an observation to the Council hoping that future annual reports would give particulars of the results of the measures taken to control the importation of methylated spirits. He was glad to observe that, according to the 1937 report, those results had proved entirely successful.

He asked for information as to the "native authority" which had taken 165 gallons of methylated spirits (page 139 of the report).

Mr. WHITLAMSMITH replied that the quantity in question had been used by native authority dispensaries and hospitals for medical purposes, and also by the mission hospitals.

M. SAKENOBÉ said that the number of cases brought before the subordinate courts under the Native Liquor Ordinance and the number of convictions during 1937 indicated a normal situation. There appeared, however, to have been an increase (page 140 of the report) in the importation of alcoholic liquors and (page 71) in the production of beer.

Mr. MACKENZIE-KENNEDY noted that imports of gin had fallen, while imports of beer and cider had increased (page 140 of the report). He thought that the moderate increase in consumption was due to the enhanced prosperity of the European and Asiatic communities.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 190.

DRUGS.

M. SAKENOBE observed (page 141, paragraph 167, of the report) that there had been an appreciable increase in the number of persons convicted under the Dangerous Drugs Ordinance during 1937. To which class did the natives charged under the Ordinance belong? Could the natives be said to be generally addicted to drugs? Had there been many abuses under the Drugs and Poisons Ordinance, now replaced by the Pharmacy and Poisons Ordinance?

Mr. MACKENZIE-KENNEDY thought that the persons convicted belonged to the floating ne'er-do-wells in the larger towns. The natives were, generally speaking, not given to the consumption of drugs, although they had a few opiates of their own such as b'hang. Under the former Drugs and Poisons Ordinance, it had been found that a number of unregistered or unqualified persons were selling various patent remedies which were worthless, and, in some cases, dangerous. The new Ordinance provided for a greater measure of control and was designed to put a stop to this practice.

PUBLIC HEALTH.

Count DE PENHA GARCIA was grateful for the replies to two questions he had raised at the thirty-first session (pages 142 and 143 of the report).<sup>1</sup> As regards the first, he agreed that the number of consultations at clinics was not so important as the number of admissions; but both appeared to him to be still far too low in relation to the total population of the territory. With regard to native medical auxiliaries, would it not be possible, in future reports, to give a list with details as to numbers, etc., although those auxiliaries were not qualified to practise as doctors? Such data would complete the picture of the medical work carried out by the mandatory Power.

Mr. MACKENZIE-KENNEDY pointed out that a figure was given on page 186 of the report, but agreed to collate the information in the chapter devoted to public health.

Count DE PENHA GARCIA enquired as to the constitution of the Missionary Medical Committee referred to on page 142 of the report.

Mr. MACKENZIE-KENNEDY replied that he believed that all missions in receipt of Government medical grants had been at liberty to send representatives to meet Government officials on the Committee.

Count DE PENHA GARCIA referred to the nutrition enquiry, the results of which had been mentioned in the Legislative Council. Under-nourishment was so frequent among native populations that the question was of the greatest interest, and he observed that a reference to the enquiry appeared in the Governor's speech to the Legislative Council (page 195 of the report). Had any action been taken as a result of that enquiry?

Mr. WHITLAMSMITH said that the report was still being considered. Further information would be given in the 1938 report.

Count DE PENHA GARCIA referred to the Governor's statement that approximately 11% of the ordinary receipts of the territory were expended on health and medical services (page 195 of the report)—a fact which demonstrated the mandatory Power's concern for the welfare of the natives. Those efforts could clearly not be relaxed, for the disease statistics showed that tuberculosis was still prevalent, that venereal diseases, though diminishing, were still considerable, that malaria was still taking a heavy toll in spite of the considerable expenditure on land reclamation, and that plague had again been conspicuous in 1937.

Had the accredited representative anything to say on the subject of sleeping-sickness and meningitis?

Mr. MACKENZIE-KENNEDY said that much had been done against sleeping-sickness by combating the fly menace, deforestation, and the shifting of the population away from dangerous areas. He would submit next year to the Commission a full report on all the recent work, which had largely been carried out by Mr. Bagshawe, Provincial Commissioner.

With regard to meningitis, this disease was thought to be brought by labourers recruited in Ruanda-Urundi across the frontier. There was now a movable laboratory which visited the employment centres and concentrated its efforts on aggregates of population, although it was not of course exclusively reserved for recruited labour.

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 48 and 49.

M. SAKENOBE recalled that there had been an epidemic of meningitis in 1935. The 1937 report was somewhat alarming ; the disease seemed to be gaining ground and mortality was now very high (page 146 of the report).

Mr. MACKENZIE-KENNEDY said that when he left the Territory in April 1938, the situation was distinctly better than it had been in 1937. The difficulty in that case lay in the influx of wanderers from other territories, against whom measures of control had so far proved useless. The Director of Medical Services of the Territory had been in touch with the authorities in adjacent territories, especially in Uganda, on the subject.

#### SOIL EROSION.

M. VAN ASBECK was grateful for the report on the control of national waters. It would, he thought, assist the Commission in following up, in subsequent years, the policy adopted as regards the water supply.

He took note of the interesting information contained on page 164 of the report and in Appendix VIII (page 217) on soil erosion. He was particularly interested to see that a meeting of the heads of the technical departments concerned and certain Provincial Commissioners was held to review the subject. He hoped the Government would be successful in dealing with this menace in East Africa.

#### LAND TENURE (*continuation*) : LAND ALIENATION (*continuation*) : CHESHAM SCHEME FOR EUROPEAN SETTLEMENT : SLEEPING-SICKNESS CONCENTRATIONS.

M. VAN ASBECK, referring to the statement on page 25 of the Provincial Commissioner's reports to the effect that it was essential for the natives to be assured of security of tenure for both cultivated fields and fallow and grazing lands, asked what was the legal position.

It was said in the annual report of the Land Department, 1934, that under the Land Ordinance, 1923, all the lands of the territory were public lands, under Government control, held for the benefit of the natives. There would, of course, be no invasion of native rights by the Administration, but was the Governor nevertheless legally empowered to dispose of lands held by natives under customary law, when disposal seemed to be to the advantage of the territory as a whole, or would he only select land suitable for alienation where no native customary rights were involved ? Would he be entitled to dispose of land without compensation, or were native rights of the same legal force as rights under European title ?

Mr. MACKENZIE-KENNEDY said that natives in occupation of tribal lands or lands not already alienated by deed to specific holders would have equal rights with other landholders to remain there : they had a right of occupancy, although no document was issued.

No native could be removed from any land of which he was in occupation without the prior approval of the Governor, and that approval would not be given until the Governor was satisfied that the native holding the land had been amply compensated, not only for the surrender of his rights but for the disturbance caused him, that the removal was in the public interest, and that the native agreed to being removed. The most strict executive instructions were issued to all administrative officials in the mandated territory. Consolidated instructions had now been drafted, and as soon as they were printed, copies would be sent to the members of the Commission.

M. VAN ASBECK understood that the situation was covered not by a law but by Government instructions.

Mr. MACKENZIE-KENNEDY said it was covered by a combination of both.

Lord HAILEY pointed out that the relevant legislation provided that the only title was that of occupancy, apart from freehold titles given by the Germans. Lord Lugard had suggested in the Mandates Commission that this cut at the root of native rights, because a valid title of occupancy could only be given by Government, and it had not given this title to natives, individually or communally. Indeed, it would be difficult to do this, unless Government was prepared to survey all the land and register all the rights. The Tanganyika Government had replied that occupation by customary tenure was regarded as legally equivalent to a right of occupancy, and therefore the Governor would have no right to disturb a native who held land under customary tenure.

Mr. MACKENZIE-KENNEDY confirmed that statement and said that the position was safeguarded against any abuse by executive instructions.

M. VAN ASBECK had read in Sir Alan Pim's report on Kenya that native custom there, so far as land tenure was concerned, appeared to be in a state of flux. Was that also true of land tenure in the mandated territory, and was there any tendency towards individualisation of native tenure ?

Mr. MACKENZIE-KENNEDY said there was indubitably a tendency, especially among the more advanced peoples in Kilimanjaro and the neighbourhood of Lake Victoria, towards individualisation as compared with tribal right to the land occupied. The process was slow but perceptible.

Lord HAILEY emphasised that Sir Alan Pim was referring to the Kikuyu reserves in Kenya, where the natives were very much more advanced and bought and sold their rights.

M. VAN ASBECK asked whether it would be possible to give further information on individualisation in the next report.

Mr. MACKENZIE-KENNEDY hoped it would be possible to comply with the request.

M. VAN ASBECK, referring to the Chesham Scheme,<sup>1</sup> asked in what district were settled the 278 natives who had been moved (page 148 of the report)—on receipt of compensation assessed by the Administrative Officer—and whether they voluntarily accepted the amount awarded.

Mr. MACKENZIE-KENNEDY said the natives concerned were informed of the application under the Chesham Scheme by a specially detailed officer, Mr. Bruce Hutt, who had previously been in control of the Hehe people for some years. This officer put the position fairly and squarely before the natives and made sure that they thoroughly understood what the application would involve if they agreed to entertain it. He assessed the amount of compensation in respect of each individual, should they decide to move off the land. He then asked their wishes, and they agreed, without any pressure, to move on receipt of compensation for disturbance and for the surrender of such usufructory rights as they possessed. They received full compensation and moved into an adjacent area of the Hehe tribal lands, where they still were. One or two had gone back to work on the land as employees of the Chesham Properties.

It would also be of interest to the Commission that on that occasion—for the first time he believed—a formal document was printed and signed by the representatives of the families concerned and attested and certified by the District Officer. It was in some such form as "I hereby certify that, the situation having been fully explained to the above-named natives, they have voluntarily agreed to remove themselves from the land in return for the compensation stated . . ." Before any natives were moved or any compensation was paid, these agreements were submitted to the Governor for his approval. That was now the standard practice in all such cases.

M. VAN ASBECK asked whether the Commission could take it that natives removed because of the Chesham scheme had not become landless and gone to European areas ?

Mr. MACKENZIE-KENNEDY confirmed that that was the position. The Governor would not look at any application for the removal of natives unless he were satisfied that adequate land was available to which to move them.

M. VAN ASBECK asked whether white settlement, as under the Chesham scheme, was only an incident, or whether it was the fixed policy of the Government to encourage such settlement.

Mr. MACKENZIE-KENNEDY said the Government had not felt it necessary to make any pronouncement as to policy. Applicants for land who were of good character and had sufficient resources were not discouraged from taking it up when it was not required for other purposes. That only applied, of course, to certain definite areas ; a number of provinces had been closed to alienation.

Lord HAILEY was under the impression that the Commission had received the reports on the basis of which a number of districts had been closed.

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<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 190.

Mr. MACKENZIE-KENNEDY thought the Commission would do better to read a short pamphlet issued in 1937 by the Central Government. On his return to Tanganyika he would have it revised and brought up to date, so that it could go into the permanent records of the Commission.

Lord HAILEY said that there were thirty-nine sleeping-sickness concentrations in the mandated territory (page 144 of the report), some of which involved moving a very large number of natives from one area to another. Did any trouble arise between new arrivals and the original occupiers of land, whether for cultivation or grazing? Was the consent of the people who had grazing or similar rights over the land obtained? The Commission had recently heard something about how these matters were arranged in Togoland, and it would be interesting to know what was done in Tanganyika.

Mr. MACKENZIE-KENNEDY understood that where natives were in occupancy of land to be taken up as a cleared space, Mr. Bagshawe had, by persuasion, argument, persistence and educational methods, conveyed to them the reasons for concentration, and was able to effect all these population movements without any serious friction between the various elements of the population. He had had to use all his powers of eloquence to persuade the scattered bush-dwellers to go into the concentrations, and no formal documents had passed. The bush-dwellers were spreading, every year, the sleeping-sickness which the concentrations were intended to prevent and eradicate. The success achieved was due, he thought, to the personality of the officer rather than to any legal or other instrument. If the Administration were required to undertake population movements all over the Territory on a very large scale, it would be confronted with great difficulties.

#### FORESTS.

Count DE PENHA GARCIA noted that steps had been taken to conserve and increase the timber resources of the Territory (pages 28, 150 to 152 of the report). What system was adopted to regulate felling?

Mr. MACKENZIE-KENNEDY said that felling was regulated by the native authorities' forest guard in some areas, and by the forestry officers in others. The Administration was not satisfied that there was sufficient watch and ward over the forests. The Commission would see from the next report, in 1939, that a large sum would be spent on a forestry programme during the coming ten years.

Count DE PENHA GARCIA asked what was the nature of the demonstrations to the Masai tribe on grass burning (page 151 of the report).

Mr. MACKENZIE-KENNEDY said these demonstrations were designed to show the Masai how easy it was to prevent the indiscriminate burning of forests. They carried out the demonstrations themselves, under the instructions of a forestry officer.

Count DE PENHA GARCIA asked how the school of forestry for young Africans was run (page 152 of the report). Did a competent agricultural or other official give instruction, or were teachers attached to the school?

Mr. MACKENZIE-KENNEDY said the school had only been opened for a year. It was run by a forestry officer who, with his trained forest guards, gave the boys instruction in forestry.

Count DE PENHA GARCIA had thought that must be the case, as he saw from paragraph 196 that it was hoped to institute an inter-territorial forestry training school, as a part of the suggested Higher College of Uganda (Makerere College) to provide higher forestry education for Africans in Uganda, Kenya and Tanganyika Territory. Had any steps been taken to give effect to the scheme?

Mr. MACKENZIE-KENNEDY said nothing had been done, because the Higher College had not yet materialised.

M. GIRAUD asked whether, in subsequent reports, exports of forestry products, such as gum arabic and timber, could be included in the tables given on pages 66 and 67 of the report for 1937; those two pages would then contain a complete picture of the exports of the Territory.

Mr. MACKENZIE-KENNEDY pointed out that a very full trade report was published at the end of every year, in which a complete picture was given of the export and import trade. He would deprecate any proposal to quote large extracts from the trade report in the annual report.

M. GIRAUD said the Commission had been informed on a previous occasion that the reason for a considerable drop in the exports of gum arabic was that the natives were no longer collecting that product, as they found the work too tiring. In 1937, there was a considerable improvement, however, which might be due to an increase in the price (page 151 of the report).

Mr. MACKENZIE-KENNEDY said that the native fell back on the collection of gum arabic whenever he was in need of financial resources which he could not obtain by other means. If he was having a profitable year with ground nuts, cotton or sesame, he did not worry about gum, but if his crops failed and he was anxious to reinforce his financial position, he turned to gum.

M. GIRAUD asked whether the export to the Union of South Africa, during the year, of timber valued at £2,560 (page 62 of the report) represented the beginning of a new current of trade that might assume larger proportions.

Mr. MACKENZIE-KENNEDY said he hoped that was so, but there had been a setback in 1938 in that a concessionary company working timber in the Usumbara mountains had slackened off and would probably pass into other hands. That would inevitably entail a drop in production in 1938.

The Administration was not very anxious to develop an export industry until the services of a utilisation officer who was being engaged that year were available and a very much more comprehensive survey than had hitherto been possible had been made of the timber resources of the Territory.

#### MINES.

Count DE PENHA GARCIA noted that there were not so many concessions of mining rights for prospecting in 1937 as in 1936 (page 153 of the report). Was that due to the introduction and enforcement of new and more severe regulations ?

Mr. MACKENZIE-KENNEDY replied in the affirmative, and added that it was also due to the stricter enforcement of existing regulations.

Count DE PENHA GARCIA asked whether there had been any considerable change since 1936 with regard to the number of non-natives of different nationalities in the Lupa Area.

Mr. MACKENZIE-KENNEDY did not think there had been any change in the proportion of nationalities.

#### EXPORTS TO SPAIN AND SPANISH POSSESSIONS.

The CHAIRMAN invited the accredited representative to reply to a question asked on the previous day<sup>1</sup> with regard to the prohibition to export certain products to Spain and Spanish possessions.

Mr. MACKENZIE-KENNEDY said the Government notice prohibiting the export of certain commodities such as mustard gas was issued, in conformity with the general policy of the mandatory Power in respect of those territories over which it had control, in connection with the non-intervention policy.

#### PETITION, DATED SEPTEMBER 30TH, 1937, FROM MR. S. V. COOKE, MOMBASA (KENYA).

M. PALACIOS desired to have additional information with regard to a petition dated September 30th, 1937, from Mr. S. V. Cooke, Mombasa. What was the substance of the question which had caused the quarrel and what was the real issue at present ? The Press had devoted a good deal of space to the petition, and the matter had been the subject of a speech in the House of Commons.

<sup>1</sup> See page 137.

Mr. MACKENZIE-KENNEDY said Mr. Cooke saw fit to bring certain charges against the Administration and the methods adopted by the police force. The charges were unsubstantiated, and after an enquiry Mr. Cooke was informed that there was no justification for a special enquiry into the conduct of the police force. He must add that—excellent officer as he was—Mr. Cooke was disinclined to accept the opinion of others on any subject on which he had himself expressed an opinion. There was no foundation for the suggestion made in certain places that the executive had attempted to interfere with the administration of justice in the Territory. Indeed, members would appreciate the fact that the initial move in calling Mr. Cooke to account was made by the Acting Chief Justice himself.

Lord HAILEY asked how the Acting Chief Justice came into the matter. Had he taken cognisance of a judicial or extra-judicial act by Mr. Cooke ?

Mr. MACKENZIE-KENNEDY said the Acting Chief Justice saw fit to suggest to Mr. Cooke that certain remarks made by him from the Bench in his capacity as a magistrate might well be withdrawn.

#### DOCUMENTATION PRESENTED TO THE COMMISSION (*continuation*).

The CHAIRMAN had wished to associate himself with the appreciative remarks of several of his colleagues concerning the quality of the report for 1937 relating to Tanganyika Territory.

He had before him a list of documents communicated by the mandatory Power during the year. It contained not only the reports of the different departments and services of the Administration, but also documents such as the report of the Colonial Office Committee on High Education in East Africa, the report on the supply and demand of labour and welfare, three medical pamphlets, and, as usual, the Minutes of the Legislative Council, as well as the *Official Gazette*.

No other mandated territory placed so much material at the disposal of the Commission. A study of those documents gave the impression that the Administration was vigilant and anxious to go fully into the problems facing it and steadily to perfect its methods.

The Commission also noted with appreciation the obvious desire of the Administration of Tanganyika Territory to assist it to follow closely the evolution of the country.

#### CLOSE OF THE HEARING.

The CHAIRMAN thanked both accredited representatives for their valuable collaboration in the examination of the report, and hoped it was not the last time the Commission would have the benefit of Mr. Mackenzie-Kennedy's assistance.

Mr. MACKENZIE-KENNEDY thanked the Chairman for his friendly remarks.

The Administration hoped to send at least one accredited representative from the Territory every year.

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#### SEVENTEENTH MEETING.

*Held on Monday, June 20th, 1938, at 10.30 a.m.*

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#### **New Guinea : Examination of the Annual Report for 1936/37.**

Major O. C. W. Fuhrman, O.B.E., accredited representative of the mandatory Power, came to the table of the Commission.

#### WELCOME TO THE ACCREDITED REPRESENTATIVE.

The CHAIRMAN, on behalf of the Commission, welcomed Major Fuhrman, who had already appeared before the Commission in another capacity and whom the members were very glad to see once again.

Major FUHRMAN thanked the Chairman.

GENERAL STATEMENT BY THE ACCREDITED REPRESENTATIVE.

Major FUHRMAN said he did not wish to make any general statement, but he thought a summary of the report might be of interest to the Commission.

The report indicated that the year 1936/37, though marred by serious volcanic disturbances which occurred at Rabaul on May 29th, 1937, and the following days, was generally a satisfactory and prosperous year for the Territory.

*Administration.*

The total number of persons in the employment of the Administration was increased during the year from 370 to 407. The policy of peaceful penetration by Administration Patrols was continued actively. The total area under control was increased from 33,546 square miles to 34,656 square miles. The enumerated native population at June 30th, 1937, was 542,394, as compared with 500,040 at June 30th, 1936.

*Education.*

European, Chinese and Native schools were maintained during the year. 2,389 schools, including 2,144 village schools, were maintained by the several religious missions operating in the Territory.

*Public Health.*

The expenditure of the Department of Public Health totalled £87,531 as compared with £80,062 during 1935/6. European cases treated numbered 1,792, native in-patients 13,989, and native out-patients 12,066. The campaign against frambœsia was actively continued, 51,259 injections of novarsenobillon being given. Medical patrols were maintained in all districts. Infant and maternal welfare formed an important branch of the Department's activities. The number of lepers at the close of the year was 509, as compared with 567 at the beginning of the year. The number of medical tultuls increased from 3,385 at the beginning of the year to 3,564 at the close of the year.

*Agriculture.*

Plant diseases investigations, plantation inspections and advice to planters were among the principal activities of the Department of Agriculture. At the close of the year, plantations numbered 462, as compared with 439 at July 1st, 1936, the total areas being respectively 197,230 hectares and 196,017 hectares.

*Native Labour.*

Conditions were satisfactory during the year. At the end of the year, 40,259 natives were employed under indenture as compared with 36,916 at the beginning of the year. Of those whose contracts expired during the year, 6,330 signed contracts for re-engagement for terms of from one to three years. A decline was shown in the death rate of labourers, to 1.2%.

*Trade and Commerce.*

The external trade of the Territory amounted to £4,731,329 as compared with £3,864,039 in the previous year, exports of gold totalling £2,020,667 as compared with £1,704,498 during 1935/36. Increased prices obtained for copra and increased production resulted in the value of exports of copra totalling £1,231,309, as compared with the previous year's figure of £761,309. Imports totalled £1,311,623 as compared with £1,290,758 during 1935/36.

*Finance.*

The year closed with a surplus of £61,906 as compared with £40,954 at the close of the previous year. Revenue and expenditure were respectively £481,070 and £460,118 as compared with the previous year's figures of £419,920 and £425,794 respectively. At the close of the year territorial currency in circulation was of a total value of £133,008.

The Public Debt was reduced by £7,831 to £39,379.

Major Fuhrman thought the *résumé*, which he had given the Commission, of the year's operations in the Territory would be helpful in arriving at an appreciation of the work of the Administration.

The CHAIRMAN thanked the accredited representative for his valuable summary.



GENERAL POLICY OF THE ADMINISTRATION : PENETRATION AND CONTROL OF THE TERRITORY :  
 CONDITIONS FOR THE ISSUE OF PERMITS TO ENTER UNCONTROLLED AREAS : PATROLS : MAP  
 OF THE NORTH-WESTERN DISTRICT OF THE TERRITORY.

M. RAPPARD said that he wished to put a very general and perhaps unusual question. The 1937 report on New Guinea was fuller than earlier reports and made it perhaps clearer than other reports on mandated territories that the Administration was engaged in opening up absolutely untouched territory. In doing so, and owing to the character of the country and the natives, it met with considerable difficulties. His question was accordingly whether the mandatory Power would not find it useful, not so much for the enlightenment of the Mandates Commission as for the guidance of the New Guinea Administration, to formulate a general policy indicating the objects, both material, social and humanitarian, of its policy towards the Territory—in other words, a philosophy of its colonial administration.

Major FUHRMAN said that he was quite prepared to give a general answer to that question forthwith.

The Administration of New Guinea had involved problems that would have taxed the resources of a country old in experience of tropical Government, and Australia had had to formulate and put into operation a policy for the advancement of the most primitive type of native of a mentality almost infantile in development. The civil administration of New Guinea began with little in its favour, without a trained service, with little money, without forced labour but with the heavy obligation of replacing savage warfare with work. The policy of the Administration had been to interfere as little as possible with native law and customs, suppressing only the bad, strengthening the good ; to reclaim the natives' health ; to increase the birth-rate ; to reduce infant mortality and to consolidate village life. The welfare of the natives rather than the economic exploitation of the territory was the Administration's first consideration and excellent progress in that direction had been made. At the same time, the economic prosperity of the Territory was not being neglected and some figures in that respect were not without interest :

	1914	1920/21	1931/32	1936/37
	(In £ sterling)			
Imports . . . . .	416,072	661,441	779,397	1,311,623
Exports . . . . .	893,404	673,992	1,108,619	3,389,072

Major Fuhrman added that the suggestion had been made occasionally by the Mandates Commission that the mandated territory might be brought under control more rapidly by speeding up the work of penetration, and he desired to point out that, since the inception of the mandate, some hundreds of thousands of natives in villages had been brought under control and had been recorded in the census. He stated that in 1914, 152,075 natives appeared on the census rolls. In 1932, that number had increased to 389,931, while in 1937 it had grown to 542,394. It would be seen from the comparative figures he quoted that the Administration, faced with a very great and not always fully appreciated difficulty of having to proceed far into the hinterland for the purpose of bringing people under control, had, in fact, achieved remarkable results in opening up the Territory.

There was abundant proof that the Australian Government was administering the Territory in the spirit and letter of the mandate.

M. RAPPARD thanked the accredited representative for an extremely illuminating statement.

Lord HAILEY desired to put two additional and more concrete questions.

In the first place, of the half-million natives now enrolled in the census, some 300,000 were said to be adherents of Christian missions. Was it the policy of the mandatory Power to open areas to missionaries as soon as they came under the Administration's control, or was it the policy to allow some interval to elapse between the establishment of administrative control and the admission of the missionaries ?

Secondly, was it the mandatory Power's policy to open newly-controlled territory to mining enterprise forthwith ? In some colonies and territories a waiting period had been imposed.

Major FUHRMAN replied that after a new area had been patrolled and had come under administrative control, it was the Administration's policy to allow a certain interval to elapse, in order that the natives might accustom themselves to Governmental authority, after which the missionaries were permitted to enter the area and begin their work. There were, of course, some areas where, owing to the dangerous and warlike character of the population, a fairly long period elapsed between the area being brought under control and the entry of mission services.

As " uncontrolled areas " had been mentioned, he would like to inform the Commission accurately as to the policy in regard to those areas.

There were many uncontrolled villages in the Territory, some of them within areas which had been penetrated and some of them within areas which had not been penetrated.

As it had been the policy of the Administration to proclaim, under the Uncontrolled Areas Ordinance, only the areas threatened with a rush of miners or other Europeans, many uncontrolled villages lay in areas not proclaimed.

Until 1925, Europeans had the unrestricted right of movement in any part of the Territory. During 1925, however, a "gold rush" occurred in one of the many parts of the Morobe District which was not then under complete control, and, as it was considered imperative for purposes of administration, public health and the interests of the natives generally to exercise a definite control over any Europeans desiring to rush into those areas, the Uncontrolled Areas Ordinance of 1925 was introduced.

By that Ordinance, the Administrator was empowered to proclaim any part of the Territory to be an "uncontrolled area" within the meaning of the Uncontrolled Areas Ordinance and the immediate effect of such a proclamation was that no one excepting :

Natives (modified by Regulation 128, Native Administration Regulations, which made it an offence for natives who had been ordered to remain in any district, area or place to leave without the permission in writing of the Administrator) ;  
Officers of the Administration ; or  
persons holding a permit under the Ordinance

might enter any proclaimed area. Certain officers were empowered to issue those permits as delegates of the Administrator, subject to the conditions prescribed, which were set out in a general way in Form 629 (a copy of which Major Fuhrman lodged with the Commission).

The general effect of that control over the various areas of the Territory was that any "rush" of Europeans, prospectors, missionaries or others into proclaimed areas could be controlled. Following the introduction of the Uncontrolled Areas Ordinance a number of areas were proclaimed as "uncontrolled areas".

Between 1925 and 1935 it was the policy of the Administration to grant permits to certain miners, missionaries and other Europeans to enter any of the proclaimed areas and, in fact, several miners and missionaries applied for and were issued such permits.

The Commission would remember that, in 1935,<sup>1</sup> two missionaries were killed in the Chimbu area and certain miners committed offences in the area south of the Sepik River, both of which places were outside the area of practicable supervision from a Government post. The Administrator then decided not to grant any further permits for Europeans to enter proclaimed areas until they were under a certain degree of Governmental control. The areas specially affected in that way were the areas lying between Bena Bena and Mount Hagen, and the area south of the Sepik River.

Europeans already in those areas, however, were permitted to remain and carry on their operations. That was mentioned in the report for 1935/36 (page 25). They were formally prohibited from extending operations beyond the posts already held until such time as the degree of Government control had been sufficiently established to allow them to undertake further expansion.

When the restrictions were imposed in 1935, the following European organisations were operating in the uncontrolled areas between the Upper Ramu (Kainantu station) and Mount Hagen :

Mount Hagen District :

Roman Catholic Mission, Mogeï ;  
M. Leahy, miner, Mogeï ;  
Lutheran Mission, Ogelbeng.

Chimbu District :

Lutheran Mission, Kerowahgi ;  
Roman Catholic Mission, Guguru ;  
Roman Catholic Mission, Dengaragu ;  
Lutheran Mission, Ega.

The organisations mentioned were operating in the Mount Hagen and Chimbu Districts when the restrictions were imposed in 1935 and were permitted to remain there. No new organisations had since been established.

At the present time, in the Ramu Bena Bena area the following Europeans were operating :

Ramu (Kainantu) :

Lutheran Mission ;  
Seventh Day Adventist Mission ;  
about half a dozen miners (most of whom had been there since 1932).

<sup>1</sup> See Minutes of the Twenty-ninth Session of the Commission, page 14.

Finintegu Post :

Nil.

Bena Bena Post :

Lutheran Mission ;  
Seventh Day Adventist Mission.

In actual fact, therefore, the only new establishments which had been made in the uncontrolled areas since the date of the restrictions in 1935 were the posts of the Lutheran Mission and the Seventh Day Adventists' Mission, Bena Bena, and the area they had entered was now considered to be under reasonably adequate supervision from the Government post at Bena Bena.

Major Fuhrman added that the work of the Administration in bringing the country under control could not be adequately estimated in terms of superficial area visited and unvisited. He pointed out that a very large proportion of the unvisited area consisted of wild, rugged mountain masses which had been flown over and which were known to be uninhabited. It was probable, therefore, that a large part of the so-called uncontrolled area would never be visited by Government officers. If there were no people there, there was no reason for it to be patrolled. Furthermore, the time of all officials would be fully taken up in the regions known to be populated.

Major Fuhrman handed in a map of the North-Western District, which he thought would prove of interest in view of his remarks.

The CHAIRMAN thought that the exploration of the uninhabited areas was not without interest from the standpoint of general knowledge of the country and of its resources. He understood, however, that it was the Administration's policy to give priority to the extension of its control over the inhabited areas.

Major FUHRMAN agreed that uninhabited areas were of interest. Aerial reconnaissance was carried out to discover whether given areas were inhabited. The experience of the Administration was that the natives welcomed the advent of white control.

He informed the Commission that, in March 1938, an Administration Patrol commenced an extensive patrol of the Mount Hagen-Sepik Area—the object of the patrol being to explore the unknown country extending from Mount Hagen westward to the Dutch border, and northward toward the southern tributaries of the Sepik River. He was informed that communication was maintained with the Patrol by wireless and, on April 6th, 1938, the Patrol was reported to be camped at the junction of the Lagaip and Kera Rivers. The natives encountered were of a different type from those in other areas. They evinced no desire for steel, trade or shells, but were very intelligent, very friendly and showed great interest in the Patrol party. In the main range there were indications of a large population, living at a height of 9,000 feet above sea level. It was expected that the Patrol would be absent from six months to a year, and that it would survey and map an area of approximately 20,000 square miles.

Lord HAILEY suggested that if the mandatory Power had had a definite philosophy in regard to the territory, as M. Rappard had urged, its attitude might not necessarily be the same. Its criterion appeared to be now whether a given area would prove healthy for missionaries and mining engineers. It might be better to ask oneself whether, in any given area, missionaries and mining engineers should be admitted at once, or only after some intervening period, the length of which would be determined by the circumstances in each case.

Major FUHRMAN said Lord Hailey would doubtless recall some earlier remarks of his which were to the effect that the mandatory Power's policy was to interfere as little as possible with native customs and to further the welfare of the natives rather than exploit the commercial possibilities of the territory.

M. VAN ASBECK congratulated the accredited representative on his opening statement.

He asked whether it was the Administration's practice, in uncontrolled areas where there was a danger (on account of the presence of gold) of an inrush of non-natives, to prohibit the entrance of outsiders into that area. Could it be laid down as a general rule that, where there was no penetration or patrolling, the entry of strangers was forbidden ?

Major FUHRMAN replied that as a general rule that was so. Naturally, entry to "penetrated" areas was forbidden where there was an element of danger or where the attitude of the natives was known to be hostile.

In reply to a further question, he said it had not been thought necessary to make further reference in the 1937 report to the two Regulations of May 18th, 1936, and February 9th, 1937, concerning which the Commission had forwarded an observation to the Council on the last occasion.<sup>1</sup> He thought the statement he had made in 1937<sup>2</sup> was perfectly clear : the

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 193.

<sup>2</sup> *Ibid.*, page 155.

Administrator was empowered to declare any area to be an area in which any native, not being a native born in the area, should not reside, except in a village or place in which there resided a European who had immediate control over the natives. That was the gist of the 1936 Regulation to which the 1937 Regulation merely provided exceptions in certain specified circumstances.

The attitude of the Administration was one of extreme vigilance, and he mentioned three cases in which permits to search for oil in the area South of the Sepik had been refused. Furthermore, several mining syndicates and various scientific expeditions had been refused permission to enter that particular area. All applications for permits were carefully scrutinised and they were granted only if the area was considered entirely safe, and if the presence of "whites" was not likely to cause unrest among the natives.

In reply to a further question by M. van Asbeck, Major Fuhrman said he was unable to give any figures relating to the area of "uncontrolled areas" as the uncontrolled areas and uninhabited country had not been, and was not likely to be, surveyed—at all events, for very many years to come. A rough estimate might perhaps be included in the next report, but he was not able to commit the Administration to furnish those figures.

M. SAKENOBE gathered from certain Press reports that prospectors, although allowed to enter certain uncontrolled areas, were generally prohibited from extending their activities beyond specified limits. There appeared, however, to have been some infractions of the rule.

Major FUHRMAN said that he had no knowledge of those Press reports. The policy, until 1925, had been to grant permits both to missionaries and to mining engineers to enter areas, which in the light of experience, might now be classed as uncontrolled. Certain troubles had arisen and that policy had been restricted. Europeans already in those areas were permitted to remain.

M. VAN ASBECK understood the accredited representative to have said that Europeans were allowed to remain in non-controlled areas after the sporadic troubles of 1935. He had seen, however, complaints by certain missions to the effect that they had been removed.

Major FUHRMAN explained that, in the majority of cases, they had been allowed to remain, but there were instances when Europeans, for justifiable reasons, had been directed to leave certain districts.

In reply to a further question, he said he had no information concerning the murder of a recruiter mentioned on page 35, paragraph 65, of the report. He would ascertain whether the incident occurred in a controlled or an uncontrolled area.

The CHAIRMAN had the impression that the uncontrolled regions were wrapped in complete mystery so long as the reconnoitring patrols had not penetrated there; it seemed that, until then, nothing was known of the populations living in those regions. In other countries where conditions were similar to those existing in New Guinea the natives did not, in general, remain closely confined to their dwelling places; they showed a tendency to wander, to leave them one by one, urged on by the desire to exchange their goods for others of which they stood in need, or by sheer curiosity to see the white men, of whose arrival in the territory they had heard. Were the natives of New Guinea afraid *a priori* of the white man, or did they remain at home because they feared the hostility existing between the tribes?

Major FUHRMAN said the policy was for the Administration to go to the natives rather than the tendency to exist for the natives voluntarily to come to the Administration. The native population could be classed as non-migratory. The Commission would remember Mr. Chinnery describing journeys upon which he had met whole tribes which were completely unaware of the presence of white men in the country. Probably fear of meeting hostile tribes might also be responsible for their non-migratory habits.

#### DEVELOPMENT OF A ROAD SYSTEM.

COUNT DE PENHA GARCIA observed (paragraph 68, page 36, of the report) that only eight miles of new roads had been built, although a different impression was given on page 122. This seemed to him meagre.

Major FUHRMAN said that the Administration was of the opinion that road development in New Guinea was keeping pace with economic requirements and was consistent with the financial position of the territory. The only fair comparison of road construction and development in the Mandated Territory would be with road development in the related territories of the British Solomons, Papua and Dutch New Guinea over, say, the last sixteen years—the period of civil administration in New Guinea. In a territory where the country was rough and broken and consisted, in the main, of chains of mountains, dense tropical jungle and miasmatic swamps, road construction, as it was generally understood, was practically

impossible. That was the settled opinion of the Administration. In any case, the majority of the natives of New Guinea did not require to dispose of their produce in the world's markets, and the administration of the great masses of people in New Guinea could be carried out adequately, and the people themselves kept in more intimate contact with European officials, through the present system of bridle tracks, which required every village to be visited on foot. Budgetary provision was made for the upkeep of made roads; bridges were the responsibility of the Administration, but bridle paths were kept in order by the natives. The maintenance of roads was provided for by the "Roads Maintenance Ordinance", which required every owner, lessee or occupier of land abutting on a track or road to maintain, at his own expense, the adjacent half width of the road or track.

M. GIRAUD pointed out that, according to the report (page 109), expenditure on road development was even lower in 1936/37 than in 1935/36 (£14,417 against £18,329). As the Commission would remember, a considerable reduction in expenditure on roads had already been made last year, as compared with 1934/35, when it amounted to £21,656.<sup>1</sup> Consequently, the amount allocated to road development had fallen by one-third in the last two years. Was not that somewhat paradoxical in a country where the road system was still embryonic?

Major FUHRMAN explained that the roads in the Territory were generally formed by simply cutting down the scrub and roughly forming the surface. Coral was found to make, without metalling, a surface suitable for vehicles. Most of the roads in the Territory were, however, unsuitable for vehicles as the rivers were numerous and, in many cases, the expense of bridging was not warranted at this stage of the economic development of the Territory.

The reason for the drop in the budgetary allocation was probably to be found in the fact that such roads as were needed at the moment—as distinct from bridle paths—had, generally speaking, been built and that money was budgeted for a limited extension of the existing system and for maintenance.

M. VAN ASBECK was gratified to note that there had been an increase of 350 miles in the bridle-path mileage in 1937 (paragraph 68, page 36, of the report), as compared with an increase of only 450 miles in the five years 1931-1936. As to the extension of the road system, he had been somewhat surprised by the accredited representative's statement to the effect that road extension was conditioned by economic requirements and financial possibilities. Should not the extension of the system be determined by the requirements of a sound administration, as well as—if not more than—by economic requirements? Secondly, he would draw attention to the statement by the accredited representative to the effect that it was not proposed to build any further motor-traffic roads in 1938/39, although the total mileage of such roads in a huge territory was only 639 miles.

Had the mandatory Power no long-term road-building programme? What criterion did the Administration propose to apply for the extension of the road system?

Major FUHRMAN suggested that the Commission should leave the Administration to be the best judge in the matter of road extension. The question was under constant review by the Administration and as much as possible was being done. Persons who had not visited the Territory could not appreciate the difficulties of road construction and, more particularly, road maintenance. In default of constant attention even well-built roads in the hinterland were liable to be overgrown by jungle in a few weeks. If there existed no long-term road-building programme the reason was that circumstances made it impossible to adopt more than a purely empirical year-to-year policy.

VOLCANIC ERUPTIONS OF MAY 29TH, AND 30TH, 1937 : VULCANOLOGICAL AND SEISMOLOGICAL INVESTIGATIONS AT RABAU : MEASURES TO BE TAKEN IN THE EVENT OF ERUPTIONS : QUESTION OF A NEW SITE FOR THE CAPITAL CITY OF RABAU.

The CHAIRMAN referred to the annex to the report (pages 149 to 158) containing an interesting study undertaken after the disastrous volcanic eruption of 1937. On page 158 of the report, it was suggested that it might be advisable to move the capital and to evacuate Rabaul. What action had been taken on that proposal?

Major FUHRMAN said he was advised that His Majesty's Government in the Commonwealth of Australia had decided that the administrative headquarters of the mandated territory must be removed from Rabaul. Following consideration of a report, the mandatory Power appointed a committee under Brigadier-General T. Griffiths, C.M.G., C.B.E., D.S.O.—formerly Administrator of New Guinea—to investigate and report on the question of the selection of a new site for the administrative headquarters. That committee left Australia for New Guinea on February 12th of this year and returned on April 21st. The report of its

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 153.

investigations was at present the subject of consideration by the mandatory Power. Major Fuhrman understood that the Australian Minister in charge of Territories, Mr. Hughes, had visited the Territory within recent weeks and that a decision would not, of course, be taken as to the selection of a site until his return to Australia.

M. SAKENOBE, referring to the annex to the report on vulcanological and seismological investigations at Rabaul by Dr. Stehn and Mr. Woolnough, asked whether any action had been taken on the other recommendations mentioned in their report, for instance, immediate removal of the whole of the buildings at Rapindik, immediate evacuation of the population on Matupi Island, an organisation for rapid and effective warning, etc. Was it true that over four hundred natives had been missing as a result of the 1937 eruption? He asked also how the relief measures taken were financed and to what extent the mandatory Power participated in the relief.

Major FUHRMAN replied that he had no definite information as regards the Committee's proposals, but he was sure they were receiving every consideration. He added that the Government Geologist was transferred from the Morobe District in November 1937 to observe and record general volcanic phenomena. Reports by that officer had been submitted at regular intervals.

With regard to any further outbreak of volcanic activity and the phenomena which might precede such an outbreak, Major Fuhrman said that an official statement of the measures to be taken in that event had been published in the local Press and circularised among the residents, and he lodged with the Commission a copy of the notice in question. He understood that plans had been made for the provision of dumps of stores, camp equipment and medical supplies outside the recognised danger zone, and that roads leading from the area were being maintained constantly in good condition. Furthermore, an emergency wireless transmitting set had been installed at Government House, and arrangements had been made for an official emergency warning in the form of a fire bell and siren.

As to the victims of the recent eruption, Major Fuhrman said that it had been found most difficult to check the native population in the area affected by the volcanic eruptions and to ascertain the number who had lost their lives. An exhaustive check was unable to account for a total of 424 natives, comprising adults and children of both sexes. The enquiries made were as complete as possible, and the Administration was forced regretfully to the conclusion that the majority of natives unaccounted for had lost their lives. The remote possibility existed, however, that some of them had fled to distant places in the Territory and would eventually be located. The missing natives were from the villages of Valaur (186), Tavaua (104), Letlet (25), and Rapolla (22), which were the four nearest villages to the eruption on Vulcan Island, and from twenty other villages to the north west. The Administrator had advised the mandatory Power that about 50 bodies had been recovered and buried and that the remainder of the natives not accounted for were apparently overwhelmed and lay under many feet of volcanic ejecta. At the time of, and shortly after, the eruptions, when efforts were being made, in very difficult circumstances, to account for the indigenous population, it was known that many of the natives in the affected area had fled to Watom Island, the Baining and other places some distance from Rabaul, and it was hoped that they would be found there or that they would return subsequently to Rabaul. These facts accounted for the delay in assuming that the missing natives had met their death. It must now be assumed that the total death roll of natives was the figure quoted, in addition to which he understood that fourteen indentured natives from other parts of the Territory could not be located and were also assumed to have been victims.

In reply to a further question by M. Sakenobe, Major Fuhrman said he did not think that any special relief fund was set up to compensate persons whose houses and plantations had been destroyed. The total expenditure arising out of the last volcanic eruption had been estimated at £49,430. He submitted to the Commission a detailed statement showing how that expenditure had been incurred.

It was proposed that this expenditure of £49,430 should be finally allocated as follows :

Commonwealth Government . . . . .	£13,974 11s. 6d.
New Guinea Administration . . . . .	£35,455 9s. 3d.

Claims by persons whose livelihood had been affected were now under consideration, but a reliable estimate of the expenditure involved in that connection was at present impossible.

#### ANTHROPOLOGICAL RESEARCH.

M. PALACIOS was interested to note that several anthropological investigations had been carried out in the Territory in the course of the year (paragraph 30, page 26, of the report).

Would the results of those investigations be published, and, if so, when? The Commission would no doubt be glad to take note of them. He would also like to know whether a report had been drawn up on the anthropological researches which had doubtless been carried out by Mr. Chinnery, Director of the District Services and Native Affairs and Government Anthropologist in the Territory, during the expeditions he had undertaken in the year in question (paragraph 49, pages 31 and 32, of the report). M. Palacios attached the utmost importance both to that type of work and to any other researches carried out by Mr. Chinnery. The Commission had received no information of an anthropological character for some years past.

Major FUHRMAN undertook to convey that request to the mandatory Power. While on the question of native affairs, he desired to inform the Commission that an interesting article on anthropological research in New Guinea and Melanesia had been contributed to a publication known as *Oceania*, by a Mr. A. P. Elkin. Major Fuhrman lodged a copy of that journal for the information of the Commission.

#### UNREST AT BUKA.

M. VAN ASBECK asked whether the disturbances that had occurred at Buka (page 162 of the report) had had any consequences, and whether there had been any other waves of "emotionalism"?

Major FUHRMAN said that, so far as he knew, there had been no further unrest after the Buka incidents.

#### TRAINING OF CADETS : USE OF THE VERNACULAR.

M. VAN ASBECK drew attention to the increase in the village councils and to the fact (paragraph 48, page 31, of the report) that the records of meetings of the native councils were drafted in the vernacular. Had that caused any difficulty, since he believed that District Officers had much difficulty in mastering the multiplicity of local languages in the territory?

Finally, had the five cadets who had taken courses at Sydney, Australia, proved to be good officials (paragraph 12, page 11, of the report)?

Major FUHRMAN thought District Officers were able to understand the records, drafted in the vernacular, of meetings of the native councils. He said it should be assumed that as the cadets trained at Sydney were still in the service of the Administration, they had proved to be efficient officers.

#### JUDICIAL ORGANISATION : CRIME.

M. RAPPARD said that he had been astonished to read (page 20 of the report) that, in 1937, there had been twenty-six cases of rape of white women by natives as compared with only six in the previous year. With a total number of two thousand white women, this meant that one in eighty had been assaulted. He assumed that white women were only found in the larger centres.

Major FUHRMAN had also noticed that fact. He had asked for further information, but a reply had not yet reached him. So far as he knew, there were no white women in isolated areas.

The mandatory Power had noticed with regret the increase in prosecutions and convictions for various crimes, as enumerated on pages 20 to 26 of the report, but the increase should be regarded as a normal fluctuation in crime, due in part to there being a larger number of indentured labourers, and to the fact that more natives had been brought under control and, consequently, within the scope of the law of the Territory. It should not be assumed that the increase in crime represented a wave of lawlessness; it was due to the reasons mentioned, and to the consequent tightening up of police supervision. He would ask for the inclusion of fuller information in the next report.

#### MISSIONS.

Major FUHRMAN said, in reply to a question by M. Sakenobe, that he had no information concerning the alleged criticism in Australian circles of the conduct of Lutheran German ministers in the Territory.

#### TRADE RELATIONS : TREATIES ACCORDING MOST-FAVOURLED-NATION TREATMENT : IMPORTS AND EXPORTS.

Count DE PENHA GARCIA asked whether any favourable repercussions had been observed as a result of the considerable number of treaties with foreign countries guaranteeing most-favoured-nation treatment to New Guinea products (page 133 of the report). He noticed

that according to the tables of imports (pages 91 to 98 of the report) and exports (pages 98 to 100 of the report) only two countries granting such treatment—namely, China and Germany, actually traded with the territory. Perhaps the 1938 report might indicate in greater detail what trade was actually done with countries having signed that type of treaty.

Major FUHRMAN said that benefit would doubtless accrue as a result of application to the territory of "most-favoured-nation" treatment. In addition to the trade with China and Germany, there were exports to "unspecified European ports" during 1936/7 totalling £257,462 (paragraph 270, page 100, of the report).

#### FRONTIER BETWEEN THE MANDATED TERRITORY AND NETHERLANDS NEW GUINEA.

Count DE PENHA GARCIA observed that the exact line of the frontier between the mandated territory and Netherlands New Guinea was to be determined through joint inspection by officials of the two countries (page 116). Had that now been done? There clearly ought to be an exact frontier between the two territories.

Major FUHRMAN replied in the negative. He said he understood that the survey had reached the limits of the friendly districts. From its present position to the Dutch border, it would be in dangerous country and any party working there would be required to be protected by a well organised escort. It was not practicable, at present, to allot suitable officers from the District Staff to undertake that work, but should necessity arise to ascertain whether any position was in the mandated territory or in the territory of Papua special parties would be detailed to carry out that particular phase of the survey of the boundary.

#### PUBLIC FINANCE : TAXATION.

M. RAPPARD said that the great improvement in the financial situation of the territory, due to economic expansion, and particularly to the yield of the gold royalties, was highly gratifying. The surplus accumulated over recent years was now a good deal larger (£61,000) (paragraph 281, page 102, of the report) than the territory's debt towards the Commonwealth (£27,000) (paragraph 288, page 112, of the report). Was it intended to pay off that debt or to put the surplus to reserve?

Major FUHRMAN replied that the Administration was of the opinion that, since the Territory's financial position had improved and was sound, there existed a moral obligation to repay, at the earliest possible moment, non-interest bearing loans due to the mandatory Power. The policy of the Administration was to meet its obligations and then, if possible, to constitute a reserve fund. The liquidation of the debt to the Australian Government would be proceeded with as the financial position of the Territory improved.

M. RAPPARD asked whether, in the light of the satisfactory finances, it was thought wise to levy in full the native poll-tax, which brought in approximately £20,000 annually (paragraph 285, page 104, of the report). The levying of such a tax might perhaps be justified by a disciplinary effect on the natives. He also asked why the mandatory Power had thought it expedient to create a special currency or coinage for the territory (paragraph 283, page 103, of the report).

Major FUHRMAN replied that the levying of the native tax was considered to have an educative effect on the natives and fostered a sense of responsibility.

He was unaware of the exact reasons which prompted the Administration to put into circulation a special coinage. The state of development of the Territory would doubtless influence the coinage policy; while, of course, there was the question of profit to be considered and the matter of providing a coin convenient for the natives to carry. The new coinage had a central hole through which a string could be passed. The Coinage Trust Fund was in credit to the extent of £58,742 and, in addition, bullion to a face value of £48,527 had been minted and was held available for circulation (paragraph 283, page 103, of the report).

M. GIRAUD recalled that last year he had drawn attention to the considerable burden on natives of a flat poll-tax of 10 shillings per head.<sup>1</sup> In the 1937 report (page 163) it was stated that the tax in question was levied only on natives who were capable of paying it without hardship. It was therefore a tax levied solely on natives who were already, as it were, comfortably off, or who at any rate had considerable resources. According to the table on page 37 of the report (amount of tax collected in 1936/37), it was paid by about 8% of all

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 161.



the natives. But on examining, in the same table, the distribution of native taxpayers by districts, he noticed that one of the districts with the lowest proportion of taxpayers was the district of Morobé (less than 5%), where, however, the most important placers were situated. In 1936/37, their output had amounted to nearly 2 million pounds worth of gold. Did not that seem, on the face of it, somewhat singular? Did the natives benefit hardly at all from the presence in their district of such wealth?

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EIGHTEENTH MEETING.

*Held on Monday, June 20th, 1938, at 3.30 p.m.*

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**New Guinea : Examination of the Annual Report for 1936/37 (continuation).**

Major Fuhrman came to the table of the Commission.

PUBLIC FINANCE (*continuation*) : TAXATION (*continuation*).

Major FUHRMAN said that the question raised by M. Giraud was one to which a general answer could not be given. The system of taxation operating in the territory envisaged the collection of a head tax from all able-bodied natives under Government control, with the exception of indentured labourers and certain other categories whom he would enumerate. Head tax was collected only from natives upon whom no hardship would thereby be inflicted, and a native who was physically unfit for work would, for example, naturally be exempted. No definite age was prescribed at which a native should pay taxes, but it was considered that, if he were fit to work, he should be able to pay the small tax of 10s. per year. It was prescribed that the tax should be paid in money, except in cases where the Administrator considered it desirable to permit a native to pay in kind or by labour. There was a good deal of flexibility about the collection of the head tax—a flexibility which, in view of the peculiar circumstances of New Guinea, was considered imperative by the Administration. Numbers of natives were exempted from taxation, such as, for example, members of the native police; natives who were under contract under the Native Labour Ordinance to work for the whole of the financial year or whose period of engagement expired during the year; natives unfit for work; any native who was the father of not less than four living children by one wife; any luluai, tultul or other native on the Administration staff; and such other natives as the Administrator might prescribe by regulation.

The Administration held the view that it was a sound policy to levy taxation on natives who were able to bear it, not only from the point of view of benefiting the revenue of the territory but also with the object of imbuing the native mind with some sense of responsibility and recognition of his own status as a citizen.

M. Giraud had mentioned the Morobe district and the fact that only £3,324 had been collected by way of head tax during 1936/37. He had also mentioned that the Morobe district was the centre of the gold-mining activities of the territory and that it was a reasonable assumption that the natives there were concentrated in number and were well able to pay head tax. Major Fuhrman pointed out that native labour employed on gold-mining operations was "indentured labour"—exempt from taxation. In the Morobe district, there were nearly 13,000 such labourers. Furthermore, the Morobe district comprised the Huon Peninsula, the Upper Ramu, Markham Valley, Salamaua and the hinterland and Waria. He agreed that, in the district referred to, the total adult population was 72,608, but the Commission would remember that much of that country could be said to have been recently brought under control—for example, the Ramu. Flexibility in the matter of collecting native taxes was imperative if the territory was to be brought under control without friction. It would be a short-sighted policy on the part of the Administration to endeavour to exact taxation from natives until those natives fully understood the implications of Governmental control and were financially able to meet a demand for payment of head tax.

M. GIRAUD asked why indentured labourers were exempt from head tax. They had assured means and, *a priori*, it would seem reasonable that they should pay the tax.

Major FUHRMAN said these natives were living away from home, and although they received rations and accommodation, they had to make provision for their families in distant villages. A 10s. tax would impose a heavy burden on them.

ECONOMIC SITUATION : AGRICULTURE : IMPORTS AND EXPORTS.

M. GIRAUD noted that, on the whole, the economic situation was still very favourable. Public finance had improved considerably, revenue being up by about 15%, while the budget, which had shown a deficit last year, now showed a surplus (paragraph 281, page 102, of the report). The agricultural situation was good; the natives nearly everywhere appeared to have had sufficient food and in some cases even more than they required. The production of copra, which, together with gold, formed the basis of the territory's wealth, was increasing; exports had reached a new record figure (76,409 tons), which was nearly 10,000 tons higher than last year's figure (paragraph 217, page 80, of the report), while, notwithstanding certain fluctuations, average prices were appreciably higher than in 1935/36 (£16 2s. per ton instead of £11 4s.) (paragraph 264, page 99, of the report). Mining activities had also progressed, as shown by the increase of 22% in weight of the gold produced. These factors had naturally contributed to a further expansion of foreign trade, which had been steadily increasing for some years past. Imports and exports showed record figures (paragraph 259, page 90, of the report). It was interesting to note that the increase in the former was due solely to larger purchases of foodstuffs. The trade balance was becoming more and more favourable, and the excess of exports over imports amounted to nearly 160%.

The report contained much interesting information on agriculture (pages 79 to 89 of the report) and the work of the various stations, backed up by very full statistics. He noted, in particular, that rice cultivation was being carried on in certain areas, mainly on Rook Island (district of New Britain) and in the Madang district (paragraph 236, pages 83 and 84, of the report). The development of local rice production appeared to be of very great importance in New Guinea, seeing that, according to the statistics on pages 91 to 97 of the report, this product came first of all imported products from the point of view of value (£89,461) (page 91). Had any steps been taken to encourage rice cultivation or was it proposed to take any such action?

Major FUHRMAN said the mandatory Power would be grateful to M. Giraud for his admirable appreciation of the sound economic position of the territory.

With regard to agriculture, to which M. Giraud had referred, he said that the Commission had doubtless read with interest paragraphs 237 to 255 of the report (pages 84 to 89), which dealt with the demonstration plantation conducted by the New Guinea Department of Agriculture on the Keravat river—28 miles from Rabaul—where low country products, such as coco-nuts, oil, palm, cacao, coffee of various lowland types, tropical fruits, vegetables, native foods and cover plants were under cultivation. Major Fuhrman understood that the various main crops were grown on a scale large enough to demonstrate their commercial possibilities and the correct methods of cultivation. He was informed that the plantation supplied seeds and plants in sufficient quantities to be of practical use to planters and that selected natives were being trained in modern methods of agriculture, so that, on return to their villages, they might disseminate the knowledge thus acquired. The shifting cultivating system, common to all primitive races, had been responsible for incalculable harm to the territory, and, at the Keravat plantation, natives were instructed in the defects of that system and in the benefits of crop rotation. Major Fuhrman lodged with the Commission a sketch plan of the demonstration plantation to which he referred, from which could be seen exactly how the plantation was laid out and what crops were under cultivation. He felt sure the Commission would appreciate the long-sighted policy being adopted by the Administration in regard to agriculture.

Major Fuhrman had little information with regard to the production of rice, but would ask for fuller particulars to be included in the next report.

In reply to a further question by M. Giraud, he added that he understood the Mission of the Holy Ghost had taken up rice cultivation at Sepik Harbour. Although the product was considered satisfactory at the time, the mission had had to abandon its efforts, as the natives developed malaria and tropical sores. The mission authorities were convinced, however, that rice could be grown successfully in New Guinea, and had recently taken up 1,000 hectares on the Sepik river for that purpose.

M. GIRAUD noted that exports of fresh coco-nuts fell from 198 tons in 1935/36 to 71 tons in 1936/37 and exports of desiccated coconut also dropped slightly (from 1,647 tons to 1,632 tons), but that the value of coconut exports increased from £594 to £710 and exports of desiccated coconut from £65,880 to £86,930 (paragraph 268, page 99, of the report). In view of the considerable increase in value revealed by those figures, how was it that the quantities exported had declined? On what basis was the statistical value of the exported products computed?

Major FUHRMAN said the figures were taken from accurately compiled statistics, such as, for example, those of the Customs Department.

M. GIRAUD pointed out that the statistics could be compiled either from market price lists periodically revised and based on commercial quotations, or from Customs declarations.

Major FUHRMAN was unable to say which method was employed.

M. GIRAUD noted that exports of cocoa beans had increased from 127 tons to 132 tons—by 5 tons only—(paragraph 268, page 99, of the report), but that the export bounty had increased in a much higher proportion—namely, from £1,165 in 1935/36 to £1,285 in 1936/37 (paragraph 224, page 80, of the report). What was the explanation?

Major FUHRMAN was unable to offer any explanation. The export bounty on cocoa beans was still 1½d. a lb. He would enquire whether particulars could be furnished in the next report.

M. GIRAUD asked what was the reason for the promulgation of Ordinance No. 11, of 1937, re-enacting the necessity for natives to obtain a licence for the purpose of engaging in the business of buying or selling copra and coco-nuts (page 18 of the report)?

Major FUHRMAN said the amendment of the Licences Ordinance in 1936 relieved native traders of the necessity to be licensed to trade. It was found, however, that certain advanced natives had actively engaged in trading in nuts to an extent beyond the requirements of ordinary trading for native purposes, and had entered into active competition with licensed traders in general mercantile trading. It was considered desirable that natives engaged in the general business of trading as distinct from the normal form of native trading should be subject to the same control and restrictions as non-native traders.

M. RAPPARD noted that exports had exceeded imports for several years, roughly by the amount of gold exported. There were only two possible explanations: (1) that the inhabitants were accumulating credit abroad or (2)—and this he thought was the case in New Guinea—that sales were, for the most part, for the account of individuals or companies not domiciled in the territory, profits being placed to the credit of companies whose stockholders lived abroad.

Major FUHRMAN had no knowledge of this question.

#### INTERNAL AND OVERSEAS SHIPPING : SHIPPING ORDINANCE, 1936.

M. GIRAUD asked whether the accredited representative was in a position to reply to a question he had asked in 1937 with regard to the advantages derived from the Shipping Ordinance, 1936, and the reasons for the opposition manifested in the territory on the announcement of the promulgation of the ordinance.<sup>1</sup>

Major FUHRMAN said the advantage derived from the operation of the Shipping Ordinance was that a greater share of the internal shipping trade of the territory was assured to local vessels, thus resulting in the encouragement of local industry and enterprise.

Local vessels were manned largely by native crews, and their operation rendered necessary the maintenance in the territory of accessory organisations—for example, workshops. Profits arising out of the internal shipping under the ordinance accrued to a greater extent to locally established persons and organisations.

The opposition manifested in the territory on the promulgation of the ordinance was caused partly by the fact that from some persons were withdrawn the advantages and facilities previously available to them when overseas vessels were permitted to engage in the internal shipping trade. Another cause for the opposition was that some feared that, with the withdrawal from the internal shipping trade of overseas vessels, those organisations controlling the local shipping would exploit the public in the absence of the competition from ships from outside.

Since the commencement of the ordinance, a new vessel—m.v. *Muliama*—had been built by Burns, Philip and Co., Ltd., and, he understood, was a marked improvement on the type of vessel previously engaged in the internal shipping of the territory.

Internal freight rates had not increased since the introduction of the Shipping Ordinance to the same extent as had overseas freight rates.

M. GIRAUD noted from the table on page 101 of the report the comparatively large share of the shipping trade falling to the Japanese flag on account of a new monthly service between Japan and New Zealand. The number of Japanese ships calling at the territory had increased from four to fifteen. Would it be possible in the future to supplement the table in question by stating, in respect of each flag, not only the number of ships with their tonnage, but also the tonnage unloaded and loaded?

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 163 and 164.

Major FUHRMAN did not think this possible. Goods were bulked and stored at the harbour side to await the arrival of the different vessels, and the administrative services were already too fully occupied and numerically inadequate to cope with the compilation of additional statistics.

M. GIRAUD replied that shipping trade statistics usually included information of that kind. However, he did not want to make the work of the services concerned more complicated and would therefore not press the point.

Major FUHRMAN said he would make representations on the subject.

#### POSTAL SERVICES.

M. GIRAUD said the report contained very little information about the work of the postal services (paragraphs 277 and 278, page 102, of the report.) Yet statistics with regard to posts, telegraphs and telephones were a valuable index to the fluctuations in the economic situation. Would it not be possible to insert, at any rate, a few brief particulars of those services in future reports ?

Major FUHRMAN said that the staff of the administrative services was numerically small and could undertake only a limited amount of work of this nature. The compilation of existing statistics already imposed a heavy clerical burden on the Administration.

#### TOURIST TRAFFIC.

M. GIRAUD said that he had read with much interest the very complete and well-prepared guide which had just been published for the use of tourists wishing to visit the territory. Was it thought likely that the tourist traffic would develop on a large scale in New Guinea ?

Major FUHRMAN said that Australians were taking an increasing interest in the mandated territory, which was reflected in the growth of a considerable tourist traffic, especially in the winter months. At the moment, the seasonal traffic was taxing to the utmost the capacity of the vessels available.

M. GIRAUD took note of this very interesting statement.

#### JUDICIAL ORGANISATION.

M. VAN ASBECK asked whether there were any native courts administering justice among the natives.

Major FUHRMAN replied in the negative.

M. VAN ASBECK asked whether the chiefs settled disputes between natives.

Major FUHRMAN said disputes were frequently settled in this way at, what he might term, "palavers", in the presence of district officers.

He added that Chief Justice Wanliss was retiring after many years' service in the territory and would be replaced by Judge Phillips, for whom a successor was now being selected.

M. RAPPARD noted from the table on page 23 of the report that two natives had been convicted, under the Insanity Ordinance, of being of unsound mind.

He also noted from the table on page 21 of the report that a European had been convicted of permitting an unmarried female to reside in his house. Would a missionary with an unmarried daughter be liable to a penalty ?

Major FUHRMAN could give no information with regard to the first offence.

He said the second offence related to a contravention of an ordinance which prohibited the employment of unmarried women.

Mr. WEAVER added that a native woman might only be indentured by a European female.

M. VAN ASBECK recalled that, last year,<sup>1</sup> he had referred to an article in the *Pacific Islands Monthly*, of October 20th, 1936, criticising the New Guinea Legislative Council. The accredited representative had said that he would bring the statements made in the paper in question to the notice of the mandatory Power.

Major FUHRMAN communicated to the Commission the remarks and observations to which the article in the *Pacific Islands Monthly* had given rise on the part of the Australian Government.

M. VAN ASBECK proposed that the Commission should declare itself satisfied with the explanations given by the mandatory Power.

*The Commission accepted M. van Asbeck's proposal.*

#### QUESTION OF THE ESCAPE OF PRISONERS AT THE TIME OF THE VOLCANIC ERUPTIONS OF 1937.

M. SAKENOBE asked whether the prisoners who were allowed to escape when the town of Rabaul was evacuated were subsequently collected.

Major FUHRMAN was unable to say whether they had, in fact, escaped. The evacuation was orderly, and doubtless appropriate measures were taken with regard to prisoners.

#### ARMS AND AMMUNITION.

M. SAKENOBE noted from paragraph 99, page 42, of the report, that imports of revolvers and pistols rose from 57 in 1935/36 to 113 in 1936/37 and rifles from 139 to 206. The number of registered rifles had fallen from 530 to 527 and the number of registered revolvers and pistols from 397 to 350 (paragraph 100, page 43, of the report). What was the explanation of that fall? What had become of the arms not registered?

Major FUHRMAN said that no special significance should be attached to the increased import of arms and ammunition. He was unable to explain the discrepancy between imports and fire-arms registered. Arms were perhaps imported and held in bond to be issued for trade purposes as required. A person to whom fire-arms were issued had to obtain a certificate of registration and, if necessary, a permit to carry such arms.

He pointed out that there was a considerable fall in prosecutions for offences against the Arms Ordinance (paragraph 101, page 43, of the report).

M. SAKENOBE suggested that some of the revolvers, pistols and shot-guns not accounted for might be worn out.

Major FUHRMAN thought that might apply to revolvers and pistols. Some of the holders of fire-arms might be in the interior and have failed to take out licences by the due date.

#### POLICE : FIRE BRIGADE.

M. SAKENOBE asked whether the fire brigade was part of, or separate from, the police force (page 126 of the report).

Major FUHRMAN said there was a fire brigade already in existence manned by members of the police force. It was highly unlikely that requirements would necessitate the establishment of a permanent fire brigade.

In reply to a further question from M. Sakenobe, he said he understood that Rabaul was the only area with an established fire brigade, but the object of the Fire Brigades Ordinance was to provide for an extension of the fire-fighting services where necessary.

#### SOCIAL AND MATERIAL DEVELOPMENT OF THE NATIVES : QUESTION OF EMPLOYING EDUCATED NATIVES IN THE ADMINISTRATION.

Lord HAILEY remarked that the Administration of the territory was very costly, because even subordinate posts, such as those of carpenter and the like, had to be filled from Australia. This naturally reduced the amount of money available for the social services. Was there any prospect that natives would be able to fill those subordinate posts in the future?

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 149.

Major FUHRMAN said it would take many decades to bring the indigenous population of the mandated territory to a point when the mentality and physical condition of the natives would be comparable with Western ideals. While it could not be claimed that advancement had reached the same standard in all parts of the territory, there were districts in which progress by the natives along European lines had been most marked in the last year or so. The Gazelle Peninsula, of the New Britain district, was an interesting example. The desire of the natives on that peninsula to shed their primitive ideas and customs and to raise themselves gradually to the material prosperity of the white man could be dated back to the time when, several years ago, a motor-car was first purchased by a Matupi native. Major Fuhrman was informed that, since then, many of the natives had acquired lorries and kiln driers; they made and marketed their own copra; there were one or two retail stores and at least one enterprising native had opened a tea-room; quite a number had banking accounts with substantial credit balances. It had been noticed, too, that there was an increasing demand for permission to indenture "foreign" natives, all of which was indicative to the Administration of the trend of the native mind in that area and showed clearly the progressive influence of the economic aspect of the invading culture.

Major Fuhrman said that such mental and material progress brought in its train many administrative problems, but those problems were inevitable and were more or less welcomed by the Administration, which felt that, in the course of time, the economic prosperity of the natives and the problems connected therewith would resolve themselves.

He thought that eventually—if not perhaps in the near future—natives would be able to fill subordinate posts. He said that some of them were already fairly skilled artisans.

LABOUR : PROFESSIONAL RECRUITING : QUESTION OF THE PERCENTAGE OF NATIVE MALE LABOUR FROM THE VILLAGES.

Mr. WEAVER thanked the mandatory Power for the replies to the questions he had asked in 1937 (page 163 of the report). He noted with particular interest the statement on page 164 regarding the special observation on labour in the report to the Council on the work of the thirty-first session of the Commission.<sup>1</sup> He specially welcomed the statement that "particular care is taken to ensure that nothing is done by recruiting that would endanger the economic and social life of the native communities. This phase of native labour administration and control is constantly under the review of the Administration officials."

He also noted, however, that the total number of indentured labourers continued to increase. It was 40,259 on June 30th, 1937, as compared with 36,927 on June 30th, 1936 (paragraph 88, page 40, of the report). A document, by the Rev. G. Pilhofer, of the Lutheran Mission, with regard to recruiting in the mandated territory, had been distributed to the members of the Commission, and it gave a very disturbing picture of the situation in the territory. It seemed to show that a very large number of labourers were being recruited, particularly in certain areas, and it drew certain conclusions as to the effect on the social and economic life of the population. Had the accredited representative any observations to make on the memorandum?

Major FUHRMAN said the article in question had been brought to the notice of the Administration. It was arranged in three parts: In Part 1, which dealt with the position brought about by the discovery of gold, Mr. Pilhofer presented certain statements and figures regarding conditions in the Morobe district, based on his interpretation of the relevant tables in the annual reports for 1925 and 1935.

Mr. Pilhofer evidently misunderstood those reports and tables; for instance, he was not correct in stating (paragraph 2): "During the last decade no areas of any importance have been opened up . . . The old districts, which had all along supplied the necessary contract labour, have therefore to be called upon for greater supplies."

Comparative figures were:

Year	Enumerated population in villages	Native labourers absent from villages
1921 . . . . .	187,517	27,726
1925 . . . . .	257,551	23,421
1935 . . . . .	444,693	33,993
1936 . . . . .	463,113	36,927

Those figures indicated that, although there were 10,572 more labourers in 1935 than in 1925 (the period quoted by Mr. Pilhofer), the officers of the Administration had put on the census during that period an additional 197,714 natives, mostly by bringing districts under

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 193.

control. Further, in that regard, it was interesting to note that, while in 1925 8% of the enumerated population, being 21% of the adult males, were absent from the villages on indentured service, in 1935 the absentees were only 7% of the enumerated population—21% of its adult males. Mr. Pilhofer again fell into error when he stated (paragraph 3) “that the Morobe district alone had to meet the annually increasing demand for labourers for the goldfield”. Major Fuhrman lodged with the Commission a comparative table of figures, from which it would be seen that, in paragraph 3 of his treaties, Mr. Pilhofer had again misunderstood the tables in the annual reports, where the figures 943 and 11,695 respectively represented the number of labourers from all districts actually working on the goldfields in 1925 and 1935, not the number of Morobe natives, which in the years quoted were 840 and 5,616, not 943 and 11,695.

Mr. Pilhofer (paragraph 4) had also misunderstood the proportion of the Sepik and Morobe populations engaged on indentured service in the territory on June 30th, 1935. The Sepik labourers were 8,742, out of a counted population of 108,243, or 8%—not 1.06%, as stated by Mr. Pilhofer. In Morobe, on the other hand, only 6,028 were recruited from a counted population of 105,378—5.7%, not 11.8%, as stated by Mr. Pilhofer. In this instance, the figures quoted by Mr. Pilhofer—1,051 and 11,695 respectively—represented the total labourers working in the Sepik and Morobe districts respectively, not the labourers recruited from those districts, as assumed by him.

Mr. Pilhofer again misunderstood in stating (paragraph 5) that the natives recruited in the Morobe district during 1935 represented 23.6% of the male population of that district. The male population of the Morobe district during that year numbered 54,627. Of that number, 6,028 were working—that was to say, 11%, not 23.6%, as stated.

The proportion of the male population of the Sepik district, absent under indenture during the same period, was 14% (60,298 males, of whom 8,742 were absent on indentured service).

In conclusion, Major Fuhrman dealt with Mr. Pilhofer's proposals.

The first suggestion was that all recruiting should be in the hands of the Government and that every able-bodied young man should be compelled by law to serve for a period with Europeans. That would require the establishment of a special official labour bureau and an amendment of the New Guinea Act to permit compulsory labour for all the requirements of the territory. Such a policy, if efficiently operated, should fulfil the labour requirements of industry with the smallest possible strain on the native community, but its weakness was that compulsory labour was fundamentally opposed to the spirit of the mandate and the New Guinea Act.

The second suggestion was to meet the increasing requirements of labour by opening up new districts and distributing the recruiting over a larger area, so that it would not fall too heavily on one district. That, in fact, had been the policy of the Administration, and its success to date was clearly revealed by the figures representing enumerated populations of 1921, 187,517, and 1936, 500,040; an increase of 312,523 in fifteen years, during which period the native labourers employed in the territory increased from 27,726 to 36,927, an addition of 9,201. Administrative activities directed towards the consolidation of penetrated districts in Morobe, Sepik, New Britain and Kieta were bringing more natives under control each year, and those natives in turn would be drawn upon to meet the labour requirements of the territory.

As to the third suggestion, which dealt with the reduction and removal of taxation, it would undoubtedly affect recruiting and lessen the strain on the villages, but, before action on those lines could be considered seriously, the effects of such a step on the requirements of the industrial organisations employing native labourers would have to be carefully studied and alternative methods of keeping up the supply of native labour be provided for.

Mr. WEAVER thanked the accredited representative for his statement. He had not gone fully into the figures for recruiting, but, with regard to the Sepik district, he found that some 27% of the adult males were indentured, the greater number of whom were employed outside the district. His attention had also been called to the following statement in a report by Mr. William C. Groves on “Native Education and Culture-contact in New Guinea”, issued in 1936: “In certain villages along the east coast of New Ireland, for instance, nearly 40% of the adult males are absent working on contracts of service with Europeans or Asiatics”. Was any information available regarding the existence of recruiting on that scale? It seemed to Mr. Weaver to go beyond anything that would be permissible in application of the principles set out in the last paragraph on page 164 of the report.

Major FUHRMAN was unable to deny or confirm the accuracy of Mr. Groves' figures.

With regard to the general question of recruiting, he said the Administration found considerable difficulty in fixing a definite figure as an indication of the number of native labourers which, in its opinion, a community could afford to lose by recruitment. Mr. Weaver

would doubtless remember that the matter was discussed on a previous occasion<sup>1</sup> by the Commission, and that Mr. Chinnery had also given the Commission certain information on the subject.<sup>2</sup> The Administrator had gone into this question very thoroughly and had made an analysis of the percentage of adult males absent as labourers in a number of colonies. That analysis showed wide variations in the percentage.

Major Fuhrman was informed that, in the Belgian Congo, a Commission which enquired as to what proportion of men could be employed at a distance from their homes without detriment to native life estimated that the proportion which could safely be allowed to leave their homes to work at a distance—by which was implied the conclusion of a contract usually for two years—was 5% of able-bodied males. Over and above that number, another 5% was estimated to be available for employment at not more than two days' distance and a further 15% in the immediate neighbourhood for such work as the compulsory production of foodstuffs, or as occasional wage labourers. He understood that, in another territory, one basis on which the available labour supply was calculated was four-fifths of the adult male population, although he did not know how that percentage was arrived at. He was informed that in 1927, in the territory to which he referred, the proportion actually in employment at any given time was estimated at about 39%.

Major Fuhrman repeated that the Administration of New Guinea found difficulty in fixing a definite figure, but it regarded 25% adult male absentees as an indication of danger. Many factors which complicated the question had to be taken into consideration, such as, for example, sex ratios, distance of place of employment from their villages, marriage, state of development of a village, etc., and he did not think the Administration felt it could be committed to expressing any opinion as to the percentage of adult male native labourers which could safely be permitted to leave their homes for work in other parts of the territory. Major Fuhrman assured the Commission that the question of over-recruitment was never overlooked by the Administration, and that the figures of natives recruited for work outside their own districts were constantly under review.

Mr. WEAVER realised the difficulty of fixing a percentage and that account would have to be taken of particular circumstances and of such factors as length of contract, distance from home, the possibility of re-engagement, etc.

There were a few remarks in Mr. Pilhofer's memorandum to which Major Fuhrman had made no reference. Mr. Pilhofer referred to the number of labourers in the Morobe district who signed re-engagement contracts. He stated that some had made two, three, and even four or six contracts; the percentage of men who had been away for six, nine, and twelve to eighteen years was also given. Mr. Weaver had not attempted to check the figures, and did not know how far the percentages given could be regarded as correct, but they indicated that the problem of re-engagement was an important factor in the social life of the natives of the territory.

The memorandum also drew attention to the effect of the absence of men on the life of the women and girls of the villages. It asserted that, as a result of the absence of the men, the women had to do much heavier work than would normally be their lot, and that the result was a very heavy increase in mortality among girls at the age of puberty. In general, the health and strength of the female population was adversely affected. Had the accredited representative any comments to make?

Major FUHRMAN had no information about the statement that 10% of the natives were away for six, nine, or twelve to eighteen years. The memorandum in question contained so many inaccuracies that he would hesitate to accept any figures quoted in it.

He was unable to say whether the absence of the male population had the effect described on women and girls. He could only say that in New Guinea, as in many other tropical countries, women usually did the manual work, such as tilling the soil, etc. He would ask for fuller information in the next report on that point.

Mr. WEAVER said he would be particularly glad of such information, as he had raised the same point in 1937,<sup>3</sup> with regard to the observations of the Lutheran Mission.

M. VAN ASBECK asked at what age males were considered old enough to leave their villages on contract labour. He had been told it was 12, but that seemed rather low.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, pages 167 to 169.

<sup>2</sup> See Minutes of the Twenty-fifth Session of the Commission, page 47.

<sup>3</sup> See Minutes of the Thirty-first Session of the Commission, page 168.



Major FUHRMAN said he would obtain information.

M. VAN ASBECK pointed out that the duration of contracts in several British colonies was only one year, not three years as in the mandated territory.

Major FUHRMAN said many reasons could doubtless be advanced in support of shorter contracts, but, so far as New Guinea was concerned, the whole problem of native labour contracts had from time to time been given careful consideration by the Administration, which at present saw no adequate reason for reducing the period from three years.

M. VAN ASBECK pointed out that no native in Papua was allowed to work more than 40 miles away from his home.

Major FUHRMAN was not familiar with the laws of Papua, but labour and other conditions in Papua were vastly different from those in the mandated territory.

Mr. WEAVER noted that the number of recruiting licences had increased in the year under review (paragraph 86, page 39, of the report). Was there any particular reason ?

Major FUHRMAN said that the increase in recruiting licences was due to employers taking advantage, under the 1935 Ordinance, of better conditions and reduced fees where holders of licences recruited natives only for employment in their own service or in the service of their employer ; also, large firms obtained licences for individual plantation managers and, in the case of Asiatics, that type of licensee recruited for employment in businesses in which many of them were occupied—for example, storekeeping and planting. Major Fuhrman pointed out that the number of professional recruiting licences had dropped from fifteen in 1935/36 to ten in 1936/37 (paragraph 86, page 39, of the report).

Mr. WEAVER noted that approximately 1,378 married women accompanied their husbands to their places of employment, as they were now permitted to do under the Native Labour Ordinance, 1935-1937 (page 41 of the report).

What was the policy of the mandatory Power with regard to workers being accompanied by their families ? Was it proposed to promote this practice where labourers signed on for longer periods ?

Major FUHRMAN said that the Native Labour Ordinance provided for the recruiting of labourers with their wives and families, and, generally speaking, this was encouraged by district officers. Its success depended, however, in the first place, on the wishes of the labourers and their families, who, in most cases, were opposed to it. It also depended on the employers of labour, some of whom were agreeable to support wives and families whether the wives were indentured or not, but most of whom were not in a position financially to pay the transport fees and support and maintain unproductive natives in their labour lines.

In the hope of reducing the periods of absence of husbands, district officers had been requested to encourage married labourers to return to their villages on the completion of their contracts.

Mr. WEAVER said that Major Fuhrman's last statement was very welcome, in view of the large number of labourers who signed contracts.

He had not found any information in the report about the employment of non-indentured labour, a matter referred to some years previously. Had there been any increase in the number of non-indentured labourers ?

Major FUHRMAN explained that the Administration was experiencing some difficulty in obtaining thoroughly reliable figures of natives employed in non-indentured labour—especially in large settlements like Rabaul. The system of recording those figures was, perhaps, at the moment, slightly imperfect, but would improve as time went on. So far as he knew, in the districts of Kieta, Madang, Manus, Morobe, New Britain, New Ireland and the Sepik, there were approximately 2,400 non-indentured labourers working during the year under review. In the New Britain district, the occupations followed by those labourers included domestic work, stevedoring, mechanical work, plantation labour and general labour consisting of aerodrome constructional work, etc. He was informed that, in most instances, the wages paid to this type of labourer were higher than in the case of those working under indenture.

In the New Ireland district, the non-indentured labourers were employed in plantation work, domestic labour, pit sawing and as boats-crews ; in mining, commerce, road work, painting and wharf construction ; in the Manus district, on general work and in trocas fishing ; while, in the Sepik, a large number was employed by miners in carrying cargo from the coast to their claims. In Madang and Morobe, those natives were employed as general labourers and, in the latter district, as miners and carriers and in plantation work. Major Fuhrman added that a considerable amount of Government work was carried out by non-indentured labour.

Mr. WEAVER noticed that there were still a good many convictions for desertion (paragraph 89, page 40, and page 24, of the report). Was there any particular reason, except that more workers were employed ?

Major FUHRMAN said that the figures for desertion were not, in fact, high. Some explanation could, however, be given in respect of four districts for the year under review. In New Britain, the increase of desertion in that district was attributed to the volcanic eruption and to the consequent dislocation of general conditions which had not been restored by the end of the financial year. In the Sepik, the majority of deserters were natives employed in mining and carrying, and were recruited from villages in the hinterland for work in Morobe. When their employers left the Morobe district and began operations in the Sepik, a number of the labourers yielded to the temptation to run away to their villages, from which they had been absent some time. In the Morobe district, a number of desertions were accounted for by natives failing to return from leave after entering into new contracts, and in Kieta, desertion among the mining labourers was induced by the wet and cold weather and the necessarily rough living conditions in the Kupei mining districts.

Mr. WEAVER noted from page 58 of the report that there had been 271 cases of " New Guinea mouth ", nearly all of them occurring in the Morobe goldfield. Was this an occupational disease ?

Major FUHRMAN explained that " New Guinea mouth " was an ulcerated condition of the mouth which appeared to be a form of scurvy. It was also known as " sore mouth ". The mildest cases showed only some slight ulceration around the teeth. Later on, it extended over the gums, and the teeth became loose. In more severe cases, the ulceration extended to the inner surface of the cheek and to the tongue. In extreme untreated cases, it might eat through to the face, causing extensive destruction of the face and resulting in death.

Mr. WEAVER asked whether it was a nutritional disease and, if so, what steps were being taken to deal with it.

Major FUHRMAN understood the disease was caused largely by the absence of fresh vegetable and fresh green food. He was unable to say what steps were being taken to combat it.

M. VAN ASBECK drew attention to a complaint, on page 4 of the report, of the Lutheran Mission, Finschhafen, with regard to the payment of wages to indentured labourers. In the past, they returned to their homes, according to this report, with a relatively large sum of money. Under the Native Labour Ordinance, 1935-1938, however, they were paid half their wages at the end of the month. Having money in their possession, they were naturally tempted to spend it and purchased articles that were of little use to them, returning home at the end of their contract with hardly any money. This was said to make it difficult for them to pay their taxes, with the result that, instead of returning home, many of them signed on for a further period.

Major FUHRMAN said he was advised that the relevant section of the Native Labour Ordinance—Section 57 (5)—was designed in the interests of native welfare in the territory ; first, for the educative influence on the natives in the handling of money ; secondly, to ensure the native labourer against improvidence by providing for half the wages to be deferred until the completion of his contract ; and, thirdly, for the purpose of minimising petty pilfering between labourers themselves—pilfering which hitherto had been practised by natives who, in the absence of regular payment, stole small things which they were unable to purchase because they had no money. Major Fuhrman added that the missions were apt to take a somewhat narrow view of certain questions.

M. VAN ASBECK pointed out that missions were in such close contact with the natives that they might sometimes be expected to observe points that would escape the attention of others.

Major FUHRMAN said that, no doubt, advantage was sometimes taken of natives ; but the same thing happened to Europeans.

MISSIONS (*continuation*) : POLYGAMY.

M. PALACIOS said that, in 1937<sup>1</sup> he had expressed the desire that, in the next report, the mandatory Power, while continuing to provide the Commission with ample information on the activities of the missions, should give a general survey, making it possible to obviate the confusion sometimes resulting from scattered, obscure or contradictory information, and clearly indicating the guiding-lines of the policy followed by it in this connection. As there had perhaps not been time to comply with his desire in the present report, could the accredited representative inform the Commission what action, if any, would be taken in the future to meet his suggestion ?

He would explain what he had in mind. The mandatory Power really furnished a good deal of information about the activities of the missions. It did so, not only in the annual report, pages 124 to 126 of which contained very interesting information, but also by sending the members of the Commission the annual reports of the missions themselves. The reports received that year contained ample information on the religious, educational, agricultural and medical work of the missions and on their industrial and even commercial activities. But it was not easy to form a comprehensive picture. Some passages of those reports seemed to indicate that the relations between the missions and the Administration were not always satisfactory, any more than the relations between the missions themselves, and between the missions and the natives. This was even brought out very clearly in some passages. The Vunapope Catholic Mission complained that it did not receive sufficient support and consideration from the Administration. The Kieta Marist Mission made the same remark. Its report was particularly specific in this connection and referred to a decision, doubtless due to trade requirements, under which the wife and children of a native who failed to return to his home were left to the charity of the mission. This mission also said that undue enthusiasm frequently led to friction between the native missionaries of the new camps. But it defended itself against the charge that it traded with the natives, a state of affairs which had been severely criticised in the missions. It also said : " Polygamy here has always been confined to the chiefs. Thinking that the mission had unduly discouraged it among the lower classes, the Administration set out to encourage it, leaving these classes quite puzzled. Ex-police are the greater destroyers of natives' customs in this matter, holding that the Administration approves. Of course it does not, I know, but there have been patrol officers who have so stated to the surprised natives."

The report of the Finschhafen Lutheran Mission, communicated by Mr. G. Pilhofer, was also very interesting, and so was the report of the Seventh Day Adventist Mission. M. Palacios would like to draw special attention to the work of this mission (mentioned in the report) among the indentured labourers recruited from all parts of the world and to the use of pidgin English. An example would be found in the prayers drawn up in that language.

From these reports, M. Palacios obtained a very distinct impression that the statements made by the missionaries were clear in some cases but obscure in others. Could the Commission not be told what the mandatory Power really thought of them and what policy it adopted towards them, in as far as it had one ?

He also noted from page 126 of the report that the territory owned and cultivated by the missionaries had increased slightly as compared with 1936 (page 98 of the report for 1935/36). The total area at June 30th, 1937, was 41,862 hectares.

Could the accredited representative explain briefly how and under what conditions the missions were able to acquire territory or would a reply to the question be given in the next report ?

Major FUHRMAN said it was thought that, by following commercial pursuits, the missions would be able to maintain closer relations with the population. They would have great difficulty in doing so if they confined themselves purely to religious activities. He had no direct knowledge of the Administration's policy, but it was not unknown for missions to be competitive in the matter of securing adherents. The missions sometimes recommended far-reaching changes in the conditions of life of the natives—recommendations which, in many cases, the Administration was unable to accept.

As M. Palacios had asked for a general statement of policy as to the relations between the Administration and the missions, he would bring that request to the notice of the mandatory Power.

Major Fuhrman thought that the form in which the reports of the missions were submitted was of particular value to the Commission. The Administration might, he thought, welcome a suggestion that these reports should be abridged and embodied in the annual reports, instead of being communicated in full.

M. PALACIOS hoped the Commission would continue to receive the reports of the missions, but would like a half-page review of the position to be included in the annual report. He would also be glad of information on all the problems he had raised—what purpose the missions served as a civilising force, etc.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 170.

M. VAN ASBECK pointed out that the competition between the missions in South West Africa had been very bitter ; the mandatory Power had finally been obliged to limit their respective fields of action. The records of the Australian National Missionary Conference, 1937, contained some remarks on the race for supremacy, and expressed approval of Government action to deal with it. He would be glad to hear the views of the mandatory Power on this very vital question.

A joint Conference of Government officials and representatives of missionary societies had been held in South West Africa. Perhaps a similar conference in New Guinea might provide an opportunity for an exchange of views between missionaries and officials regarding native welfare, a question in which both categories were interested.

Major FUHRMAN pointed out that missionary organisations frequently held conflicting views on religion and on native customs and practice, and, in his opinion, a conference might not be in the best interests of the territory. Conditions in New Guinea were quite different from those in South West Africa.

The information asked for would be inserted in the next report. While on the subject of missions, Major Fuhrman desired to mention that, in connection with the honours conferred by His Majesty the King on members of the staff of the Catholic Mission of the Sacred Heart at Vunapope, special mention was made of the fact that, immediately following the eruptions the mission made all its resources available to assist refugees from Rabaul, and rendered invaluable service in the provision of a schooner, hospital accommodation, food and clothing.

#### EDUCATION.

The CHAIRMAN read the following notes prepared by Mlle. Dannevig :

“ In 1936,<sup>1</sup> I asked for information on the work of the Committee appointed to examine native education. Last year's report contained some information on this question and stated that the Committee was granted further time to study the matter more fully before submitting any detailed recommendation. I therefore asked the accredited representative last year if he could state whether the Committee's recommendations had already been submitted to the Administration, and if it would be possible for the Committee's report to be communicated to the Mandates Commission.<sup>2</sup>”

“ The accredited representative replied that the Administration intended giving consideration to the proceedings and recommendations of the International Conference on the Education of Natives in countries and territories in the Pacific, which was held at Honolulu during July and August 1936. In the meantime, the Special Committee appointed by the Legislative Council had deferred the preparation of recommendations pending the arrival of reports of the proceedings of and recommendations reached by that Conference.

“ There is only one short passage referring to the matter in the 1936/37 report (paragraph 115, page 45, of the report). I see from that passage that final consideration of proposals in connection with future developments in native education has again been deferred pending the receipt of the report of the Education Conference held at Honolulu during the year. The Committee appointed to deal with the matter was unable to continue deliberations owing to the absence from the territory of four of its members.

“ I should be grateful to the accredited representative if he could give the Commission more information in respect of the further regrettable delay to which this very important matter has been subjected.”

Major FUHRMAN said that the Administrator had received the report of the Honolulu Education Conference after the last meeting of the Legislative Council on February 10th, 1938.

The CHAIRMAN, on behalf of Mlle. Dannevig, made the following observation :

“ Last year,<sup>3</sup> I stated that it appeared from the report that the educational activities of the missions had increased during the year under review, as compared with the previous year. The report further stated that ‘ the Administration exercises no supervision over the mission schools, nor does it inspect the work done ’. This, I pointed out, was most unfortunate and seemed to have been noted in the first findings of the Special Committee. As it was, very little information was available to the Commission regarding the state of educational activities in the territory, but this could scarcely be regarded as satisfactory in a mandated territory.

“ I consequently asked whether the mandatory Power contemplated any immediate action in this connection.

“ The accredited representative replied that, in the light of the decisions of the Honolulu Conference, this was one of the points which he thought might find a place in the Special Committee's report.

<sup>1</sup> See Minutes of the Twenty-ninth Session of the Commission, page 28.

<sup>2</sup> See Minutes of the Thirty-first Session of the Commission, pages 170 and 171.

<sup>3</sup> *Ibid.*, page 171.

" I regret to state that, as will be seen from page 45 of the report under review, the issue of the report of the Special Committee has been subject to a prolonged delay.

" At the same time, I would point out that, according to the annual report, the educational activities of the missions have increased, as compared with the previous year (see page 46, paragraph 123, of the 1936/37 report, and page 37, paragraph 110, of the 1935/36 report)."

Major FUHRMAN said no definite policy with regard to educational matters could be formulated until the Legislative Council had had an opportunity of considering the Special Committee's report.

The CHAIRMAN, on behalf of Mlle. Dannevig, put the following question :

" It is said on page 37, paragraph 79, of the report, that no education tax was levied under the Natives Taxes Ordinance, 1921-1933, during the year ended June 30th, 1937.

" Was not this tax entirely abolished in 1933 ? On page 114, paragraph 292, of the report, comparative figures for expenditure on native education are given for the years 1921-1937. They show a considerable general decrease, especially after the Native Education Tax was abolished. It was then said that native education would not suffer, as it would be paid for out of revenue. What has prevented this plan from being carried out ? "

Major FUHRMAN had no information on the subject. Particulars would be furnished in the next report.

The CHAIRMAN, on behalf of Mlle. Dannevig, put the following question :

" I note on page 45, paragraph 115, of the report the following passage : ' The course of instruction in the art and practice of teaching and super-primary instruction in subjects to be taught in these primary village schools will be of two years' duration. Progress, however, must be very slow, as development of any scheme is entirely dependent on the supply of suitably trained natives. This supply is itself dependent on natives desirous of becoming teachers and capable of being trained.'

" Does this passage mean that there is a shortage of such available natives ? What are the reasons for this shortage ? "

Major FUHRMAN thought the wording of the paragraph in question implied that there was a shortage, but was unable to offer any explanation beyond saying that the natives of New Guinea were most primitive. Considerable time must elapse before they could be regarded as sufficiently educated and stable to take their place as teachers in the educational service.

M. VAN ASBECK asked whether there were any native teachers in mission schools.

Major FUHRMAN said he understood there were many natives who were elementary teachers. He pointed out that in the report there was a mention of two native teachers at Chimbu (paragraph 115, page 45).

The CHAIRMAN, still speaking on behalf of Mlle. Dannevig, put the following question :

" The report states that the Administration subsidizes the Roman Catholic Mission of the Most Sacred Heart of Jesus in respect of its school for European children at Kokopo by making a *per capita* payment at the rate of £10 per annum for children attending the school (paragraph 119, page 46, of the report). Are similar subsidies paid to other missions ? I cannot find any indication as to those subsidies in the table on page 112 of the report."

Major FUHRMAN replied in the negative.

M. SAKENOBE asked whether the school referred to in paragraph 109, (page 45 of the report) was the same as that referred to in paragraph 119 (page 46).

Major FUHRMAN said there was only one school. Paragraph 109 commented generally on the educational policy, and paragraph 119 referred specifically to future developments.

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NINETEENTH MEETING.

*Held on Tuesday, June 21st, 1938, at 10.30 a.m.*

**New Guinea : Examination of the Annual Report for 1936/37 (continuation).**

Major Fuhrman came to the table of the Commission.

ALCOHOL AND SPIRITS.

M. SAKENOBE drew attention to the increase in the number of convictions for offences relating to intoxicating liquor (paragraph 103, page 43, of the report). Was that increase due to greater vigilance on the part of the police or to heavier consumption of alcohol ?

Major FUHRMAN reminded the Commission that he had already referred to the general increase in crime in the territory, <sup>1</sup> which he had ascribed to the increase in the number both of indentured labourers and of natives coming under the control of the Administration. Police supervision had also become stricter. He did not think that the increase in offences of this nature indicated any abnormal situation.

PUBLIC HEALTH.

Count DE PENHA GARCIA paid a tribute to the remarkable care with which this section of the report was now drafted (pages 47 to 79). It was still, however, a little difficult to appreciate the general health situation, since all the statistics were divided into three parts corresponding to the European, Asiatic and native populations respectively.

He observed that the mortality figures relating to pneumonia and tuberculosis were remarkably high, although the morbidity seemed to be normal. This was all the more remarkable in that there appeared to be practically no influenza among the natives, although elsewhere that disease was very common.

Major FUHRMAN regretted that he had no additional information concerning those two diseases and undertook to see that special reference was made to them in the next report. The high mortality was due perhaps to the fact that among primitive people little notice was taken of disease until they were stricken down. Pneumonia frequently developed without dangerous symptoms manifesting themselves until the patient was critically ill. Tuberculosis was a disease which could remain latent for years and then develop suddenly with uncontrollable rapidity.

Count DE PENHA GARCIA expressed the hope that every effort would be made by the Administration to prevent the spread of gonorrhoea, which was so highly contagious that it often became a veritable epidemic among native populations.

He had read with interest the passage in the report (page 54) relating to the medical work of the Administration patrols. How often, on the average, was a native village visited by a patrol ? The report made it clear that one of the main medical objects of the patrols was to supervise the work of the medical tultuls. In that connection, the report (paragraph 140, page 55) pointed to some dissatisfaction with the working of the tultul system. What alternatives to that system did the Administration contemplate, and could the subject of its reform be dealt with fully in the next report ?

Major FUHRMAN said that, in view of the pressure on the patrol officers' time, no fixed programme of village inspections could be adhered to. The medical situation in any given area was, however, under the constant supervision of the medical authorities, and patrol visits were arranged with little delay whenever the need arose.

In connection with the incidence of gonorrhoea he observed that the number of cases treated was 282 out of a total adult population of 330,660. This represented only 0.01% of the total cases treated for all diseases and only 0.004% of the total population. At the same time, he would bring Count de Penha Garcia's fears to the notice of the Administration.

He would ask that a suitable reference to the reform of the tultul system should be made in the next report.

<sup>1</sup> See page 169.

COUNT DE PENHA GARCIA drew attention to the new system instituted (page 56 of the report) to obtain accurate statistics on infant mortality. Were the statistics furnished by the special station established at Maprik to be considered as more accurate than those supplied by the missions ?

He noticed that the Administration had found a higher infant mortality rate in the Baining area, which was still operating under the patrol system. The report suggested that this might be due to the high incidence of leprosy in that area. There was no doubt that the prevalence of any particular disease in a given district was invariably reflected in the infant mortality rate.

Major FUHRMAN agreed. He considered that the figures obtained by the new research station at Maprik should be regarded as more accurate than mission statistics.

COUNT DE PENHA GARCIA was surprised to find (paragraph 151, page 66, of the report), that relatively high charges were made for the removal of refuse from private dwellings. He recognised that the health expenditure of the Administration already amounted to 19% of the normal revenue—a fact which was greatly to the credit of the Administration—but he nevertheless considered that disposal of refuse should be paid for out of the public funds. The number of persons benefiting from that service appeared to be very low and he assumed that it only applied to European dwellings.

Major FUHRMAN did not think it would be advisable to abolish the special charge for sanitary services and refuse disposal. The service was extended to any dwelling the owners of which paid the charges in question, whether Europeans, Asiatics or natives—in so far as the latter dwelt in houses. The Administration had made every effort to combat dysentery, and notices had been issued throughout the territory urging that proper sanitary precautions should be taken. So far as he knew, even in highly westernised countries, there was a charge, either direct or indirect, for sanitary services.

COUNT DE PENHA GARCIA, on behalf of Mlle. Dannevig, asked the accredited representative whether he considered that one qualified doctor was sufficient to supervise the twenty-five hospitals of the Catholic Mission of the Sacred Heart (page 125 of the report).

Major FUHRMAN replied that, in addition to the qualified doctor, there was an adequate number of competent medical assistants.

#### LAND TENURE.

M. VAN ASBECK noted that there had been a small increase in the total area of native reserves (paragraph 80, page 38, of the report), but regretted that he could find no reply in the report to his question on the previous occasion as to the possibility of having a general survey of the conditions of land tenure by the native tribes. He had also asked the year before whether there was any need for native reserves in a country with so much unoccupied land.<sup>1</sup>

Lord HAILEY said that he was also puzzled about the meaning of the native reserves referred to on page 163 of the report. Were they of the same class as the reserves elsewhere, as, for instance, South or East Africa ?

Major FUHRMAN said that a description of native reserves would be included in the next report. Briefly, the position was that prior to the establishment of the present Administration extensive areas of land had been alienated and freehold titles had been granted in respect of such land. In some instances communities of natives had their villages and gardens on the areas alienated. In certain cases, the titles were endorsed with an encumbrance to the effect that the native inhabitants could live on and use the lands occupied by them at the time of alienation but that, on the death of those natives, the land would revert to the registered owners. The over-alienation of land and the effect upon the native communities concerned was investigated by the Administration and, where it was found that the natives had not sufficient land for their present and future needs, steps were taken to excise from the alienated areas sufficient land to meet the requirements of the natives. The areas excised were vested in the Commissioner of Native Affairs as "Native Reserves". In addition to native reserves, there were extensive areas of land in the territory that were owned by the natives.

Lord HAILEY would like to find in the next report a precise definition of what was meant by native-owned areas (apart from the native reserves just mentioned) and a description of the basis of ownership, whether, for instance, there was a recorded title, and if so, individual or communal.

Major FUHRMAN undertook to see that this was done.

<sup>1</sup> See Minutes of the Thirty-first Session of the Commission, page 173.

FORESTS.

Count DE PENHA GARCIA was glad to observe (page 99 of the report) that there had been an appreciable increase in the exports of timber from the territory. Would it not be possible to make public Mr. Lane Poole's report of 1935 on the forest areas? He would be glad to know whether there was here an economic factor capable of development.

MINING.

Count DE PENHA GARCIA, referring to mines, observed with satisfaction that the inspectorate had been further strengthened. In paragraph 302, page 117, of the report, reference was made to concessions granted to a number of companies to search for oil. What progress had been made by the firm "Oil Search Limited"? While the concession to search remained valid, the Company exercised certain privileges and was able to prevent any other undertaking from attempting to exploit what might prove to be a considerable source of wealth to the territory.

Major FUHRMAN pointed out that the undertaking in question was a private company and that its affairs were therefore confidential to the directorate and shareholders of that company. It was doubtless conducting its search for oil with diligence, since heavy fees were payable for concessions.

Count DE PENHA GARCIA appreciated that point. The report indicated, however, that the Company was still engaged in geological research. He would be glad to know at what moment actual drilling or boring for oil began.

The CHAIRMAN explained that there was no question here of enquiring into matters which a commercial undertaking was quite properly entitled to keep secret. The Commission did not desire to know what success had attended the Company's efforts, how much oil and of what quality was being obtained, etc. But as a concession of this type involved a restriction upon any enterprise or development by others, it would be interesting to know that it was being properly used and that the search for oil was being actively prosecuted.

Major FUHRMAN pointed out that the preliminary operations of that type of undertaking had of necessity to be kept secret. If it were known prematurely that a certain company had found oil in payable quantities, very many undesirable repercussions might follow. He assured the Commission that the companies to which concessions had been granted were active and not dormant companies. He would endeavour to ascertain whether "Oil Search Limited" was still conducting geological research or was actively boring for oil, but he could give no assurance that the information could or would, in fact, be furnished in the next report.

DEMOGRAPHIC STATISTICS : INDENTURED LABOUR : NON-INDIGENOUS POPULATION.

M. RAPPARD noted from Table I on page 138 of the report (Enumerated Native Population, June 30th, 1937) that, out of a total of 138,435 male adults, 40,259 were indentured labourers—that was to say, nearly 29%. Was not that percentage too high?

Major FUHRMAN said he had explained the Administration's views on the over-recruitment of labour at the previous meeting.<sup>1</sup> The Administration had experienced various difficulties in fixing the figure for indentured labour.

M. RAPPARD observed that it was not surprising that the natives were unwilling to be enumerated if the chances of their being indentured were one in three.

Major FUHRMAN said that, as a general rule, the indenture system was not regarded unfavourably by the natives.

M. RAPPARD thought that depended on whether the natives were removed from their home district and on the length of their contracts. Those two factors should be carefully borne in mind when the indenture system was considered.

<sup>1</sup> See page 177.



Major FUHRMAN explained that, owing to the very primitive social conditions of the natives, the " indenture system " was at present the most beneficial for them. It afforded them a measure of protection, and they entered willingly into the contract, which was for three years. There were cases when they were re-engaged for a further period. It was true, however, that desertions for reasons which he had mentioned earlier<sup>1</sup> in the examination sometimes occurred. Desertions were inevitable.

M. RAPPARD thought, on the contrary, that primitive natives would suffer more when taken out of their usual environment for three years than more advanced natives, as the psychological effect on them would be more serious.

Major FUHRMAN said that native labour was one of the big problems of the territory.

M. RAPPARD asked whether there had been a slight excess of emigration over immigration among the non-indigenous population. Paragraph 347 of the report (page 128) stated that there had been a net decrease of thirty in the non-indigenous population.

Major FUHRMAN pointed out that the figures had remained stationary during the last two or three years. The small decrease might be due to the fact that persons in transit would be included. New Guinea was not a region that attracted many whites.

M. RAPPARD said he would have expected the mining prosperity mentioned in the report to have attracted a certain number of whites.

Major FUHRMAN explained that the mines only employed a limited number of whites. Other white people who might be attracted to the territory would be prospectors and, perhaps, traders.

M. RAPPARD asked whether the Vulcan Island eruption of May 29th, 1937, might not have affected the number of the white population.

Major FUHRMAN thought this probable.

#### CLOSE OF THE HEARING.

The CHAIRMAN thanked Major Fuhrman. The Commission greatly appreciated the trouble he had taken in order to supply it with all useful explanations concerning the matters which were of particular interest to it.

#### **Palestine and Trans-Jordan : Observations of the Commission.**

The Commission began its examination of its observations concerning Palestine and Trans-Jordan. After an exchange of views, it *decided* to proceed with the preparation of its observations, on the basis of a text to be drawn up in accordance with the opinions expressed by its members.

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#### TWENTIETH MEETING.

*Held on Tuesday, June 21st, 1938, at 6 p.m.*

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#### **South West Africa : Observations of the Commission.**

After an exchange of views, *the Commission adopted the text of its observations concerning South West Africa (Annex 31).*

#### **Nauru : Observations of the Commission.**

After an exchange of views, *the Commission adopted the text of its observations concerning Nauru (Annex 31).*

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<sup>1</sup> See page 180.

TWENTY-FIRST MEETING.

*Held on Wednesday, June 22nd, 1938, at 10.30 a.m.*

**Togoland under French Mandate : Observations of the Commission.**

After an exchange of views, *the Commission adopted the text of its observations concerning Togoland under French mandate (Annex 31).*

**Syria and Lebanon : Observations of the Commission.**

After an exchange of views, *the Commission adopted the text of its observations concerning Syria and Lebanon (Annex 31).*

M. DE HALLER said there appeared to be an absence of any logical connection between the Commission's decision to postpone the examination of the administration of Syria until its autumn session and the formulation of an observation on one aspect of that administration. As the future of the minorities was not the only problem with which the Commission was called upon to deal, would it not be advisable for it to explain why it had thought fit to limit its observations to that question ?

The CHAIRMAN took note of M. de Haller's remark, but pointed out that the main preoccupation of the Commission had always been the protection of the minorities after the termination of the mandate in Syria. Furthermore, this was a question in which the Commission might make its influence felt with some possibility of success and, by making an observation with regard to minorities, it could not but strengthen the mandatory Power's action in that connection.

**Tanganyika : Observations of the Commission.**

After an exchange of views, *the Commission adopted part of its observations concerning Tanganyika (Annex 31).*

**Late Arrival of the Annual Reports on Certain Territories.**

The Commission, referring to the decision taken at its opening meeting<sup>1</sup> to draw the Council's attention to the inconvenience caused by the late arrival of the annual reports on Tanganyika, Palestine and Togoland under French mandate, considered it sufficient to request the Secretary-General to call the attention of the mandatory Powers concerned to that matter when sending them notice of the next session.

**Date of the Next Session of the Commission.**

*The Commission decided, in principle, that its thirty-fifth session should open on Monday, October 24th, 1938.*

**Syria and Lebanon.**

PETITIONS (EIGHT IN NUMBER) CONCERNING THE 1936 ELECTIONS IN THE SANJAK OF ALEXANDRETTA.

After an exchange of views, *the Commission adopted the conclusions of Mlle. Dannevig's report (Annex 14).*

PETITION, DATED NOVEMBER 25TH, 1937, FROM M. MOHAMMED ADIB KHALED AND OTHER SIGNATORIES, TRIPOLI.

After an exchange of views, *the Commission adopted the conclusions of M. Sakenobe's report (Annex 25).*

PETITION, DATED OCTOBER 24TH, 1937, FROM M. SAMI SLIM, TRIPOLI.

After an exchange of views, *the Commission adopted the conclusions of M. Sakenobe's report (Annex 18).*

<sup>1</sup> See pages 10 and 11.

PETITIONS (FIFTEEN IN NUMBER) FROM INHABITANTS OF UPPER JEZIREH.

After an exchange of views, *the Commission adopted the conclusions of M. Sakenobe's report (Annex 26).*

PETITION, DATED MARCH 1938, FROM M. KHALED DAGHESTANI, HOMS, AND OTHER CIRCASSIANS OF THE MOHAFAZATS OF HOMS AND HAMA.

After an exchange of views, *the Commission adopted the conclusions of M. Sakenobe's report (Annex 20).*

PETITIONS (FOUR IN NUMBER) RELATING TO SYRIAN UNITY AND CONCERNING THE STATUTE OF LATAKIA.

After an exchange of views, *the Commission decided to adjourn the examination of this petition until such time as it had before it the whole of the Statute of Syria.*

**Palestine.**

PETITION, DATED FEBRUARY 25TH, 1937, FROM THE NATIVE RACES AND THE LIQUOR TRAFFIC UNITED COMMITTEE, LONDON.

After an exchange of views, *the Commission adopted the conclusions of M. Sakenobe's report (Annex 8).*

LETTER, DATED AUGUST 12TH, 1937, FROM M. MOHAMMAD AMIN HUSSEINI, FORMER PRESIDENT OF THE SUPREME ARAB COMMITTEE, JERUSALEM.

After an exchange of views, *the Commission adopted the conclusions of Mlle. Dannevig's report (Annex 10).*

**Tanganyika.**

PETITION, CONSISTING OF TWO RESOLUTIONS PASSED ON SEPTEMBER 25TH, 1937, AT A MEETING OF THE INDIANS AT DAR-ES-SALAAM (HELD UNDER THE AUSPICES OF THE INDIAN ASSOCIATION).

After an exchange of views, *the Commission adopted the conclusions of M. Giraud's report (Annex 29).*

**Petitions rejected in virtue of Article 3 of the Rules of Procedure in respect of Petitions : Report by the Chairman.**

*The Commission noted the Chairman's report (Annex 5).*

**Palestine : Communications from Private Sources received on the Occasion of the Examination of the Problem of the Status of Palestine.**

The CHAIRMAN said he had drawn up a supplementary list of communications from private sources received on the occasion of the examination of the problem of the status of Palestine (Annex 6) ; this was an addition to the three lists submitted to the Commission during the thirty-second (extraordinary) and thirty-third sessions.<sup>1</sup> The document would be distributed to the Commission and, in accordance with precedent, communicated to the accredited representative of the mandatory Power.

The communications in question were not petitions in the strict sense, but texts the authors of which expressed their point of view in the Palestine affair. The communications had been placed in a file which was at the disposal of the members of the Commission.

**Syria and Lebanon : Question of the Competence of the Mandates Commission regarding the Sanjak of Alexandretta.**

M. RAPPARD said the Press contained a fair number of articles with regard to the discussions in progress on the future regime of the Sanjak of Alexandretta. The Sanjak was part of a mandated territory, and the public might be surprised, when there was a question of modifying its political status, that the Mandates Commission refrained from examining

<sup>1</sup> See Minutes of the Commission : Thirty-second (Extraordinary) Session, pages 137, 206 and 222-225 ; and Thirty-third Session, pages 138-139 and 172.

the administration of this region. In those circumstances, he would be glad to know why the Mandates Commission was not considered competent to deal with the question of the Sanjak of Alexandretta.

M. DE HALLER, at the Chairman's request, briefly outlined the history of the question :

In December 1936, the League Council was seized, in virtue of Article 11 of the Covenant, of a dispute between Turkey and France relating to the regime of the Sanjak of Alexandretta. As the outcome of negotiations and enquiries with which, in point of fact the Mandates Commission had not been associated, the Council, on May 29th, 1937,<sup>1</sup> adopted a special Statute for the Sanjak, and provided the latter with a Fundamental Law. Those texts came into force on November 29th, 1937, and, in accordance with the Council resolution, it would rest with France, until the termination of the mandate, to bring the new regime into operation as far as was compatible with the exercise of her mandate. As the Chairman had observed at the Commission's thirty-first session<sup>2</sup> a new regime had thus been introduced by the Council for part of the territory under mandate in virtue of a decision having the same authority as the mandate itself.

No one, so far as M. de Haller was aware, had at that time disputed the fact that the Mandates Commission was competent to supervise the application of that regime, as it was its duty to supervise the application of all the other provisions of the mandate for Syria and Lebanon. Moreover, in the report of the mandatory Power for 1937, which the members of the Commission had received in proof, a paragraph was devoted to the administration of the Sanjak under the new regime. It was clear from the above that it was not true to say that the Mandates Commission was not concerned with the supervision of the administration of the Sanjak of Alexandretta under Council decisions.

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## TWENTY-SECOND MEETING.

*Held on Wednesday, June 22nd, 1938, at 3.30 p.m.*

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### **Tanganyika Territory : Observations of the Commission** (continuation).

After an exchange of views, *the Commission adopted the text of its observations concerning Tanganyika Territory* (Annex 31).

### **Palestine.**

PETITION, DATED JANUARY 1938, FROM THE " NESSIUT " (PRESIDENCY) OF THE NEW ZIONIST ORGANISATION, LONDON, TRANSMITTED ON JANUARY 18TH, 1938, BY MR. A. ABRAHAMS, POLITICAL SECRETARY.

After an exchange of views, *the Commission adopted the conclusions of M. Palacios' report* (Annex II).

LETTER, DATED MAY 4TH, 1938, FROM THE PRESIDENT OF THE JEWISH AGENCY FOR PALESTINE, ACCOMPANYING A MEMORANDUM ON THE DEVELOPMENT OF THE JEWISH NATIONAL HOME IN 1937.

After an exchange of views, *the Commission adopted the conclusions of Count de Penha Garcia's report* (Annex 12).

PETITION, DATED JULY 1936, FROM THE " NESSIUT " (PRESIDENCY) OF THE NEW ZIONIST ORGANISATION, LONDON, FORWARDED ON AUGUST 14TH, 1936, BY DR. H. LÉVI, MEMBER OF THE " NESSIUT ".

After an exchange of views, *the Commission adopted the conclusions of M. Rappard's report* (Annex 7).

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

After an exchange of views, *the Commission adopted the conclusions of Count de Penha Garcia's report* (Annex 9).

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<sup>1</sup> See *Official Journal*, May-June 1937, pages 329, 580 and 587.

<sup>2</sup> See Minutes of the Thirty-first Session of the Commission, page 182.

**Syria and Lebanon.**

PETITION, DATED DECEMBER 27TH, 1937, FROM M. MICHEL SAYUR, ROME, AND OTHER HEIRS OF THE LATE ANTOUN YOUSSEF SAYUR, SUBMITTED THROUGH THE AGENCY OF MAITRE EMILE ZALZAL, ADVOCATE, BEIRUT.

After an exchange of views, *the Commission adopted the conclusions of Lord Hailey's report* (Annex 16).

PETITION, DATED NOVEMBER 5TH, 1937, FROM M. ABDEL KADER AND M. FOUAD GHANDOUR, BEIRUT.

After an exchange of views, *the Commission adopted the conclusions of Count de Penha Garcia's report* (Annex 15).

PETITION, DATED SEPTEMBER 25TH, 1937, FROM M. KASSEM MOUSTAPHA, M. KHALED HAMAD EL-KHATIB AND OTHER SIGNATORIES OF THE EL-ARKOUB DISTRICT.

After an exchange of views, *the Commission adopted the conclusions of M. Palacios' report* (Annex 17).

PETITIONS (FIVE IN NUMBER) DATED SEPTEMBER 25TH, DECEMBER 10TH, 14TH AND 15TH, 1937, AND JANUARY 9TH, 1938, FROM INHABITANTS OF DAMASCUS AND HOMS.

After an exchange of views, *the Commission adopted the conclusions of Count de Penha Garcia's report* (Annex 19).

PETITIONS RELATING TO THE LEGISLATIVE ELECTIONS WHICH TOOK PLACE IN THE MOHAFAZAT OF LATAKIA IN OCTOBER 1937.

After an exchange of views, *the Commission adopted the conclusions of M. Palacios' report* (Annex 21).

PETITIONS (SIXTEEN IN NUMBER) CONCERNING THE SANJAK OF ALEXANDRETTA.

*The Commission decided to adjourn to its autumn session the announcement of its conclusions on these petitions, seeing that they dealt with facts that would necessarily be mentioned during the examination of the report for 1937.*

PETITIONS, DATED DECEMBER 2ND AND 15TH, 1937, FROM M. RACHID YOUSSEF BEIDOUN, FROM M. IBRAHIM FAYAD AND OTHER SIGNATORIES, BEIRUT.

After an exchange of views, *the Commission adopted the conclusions of M. Palacios' report* (Annex 22).

PETITION, DATED NOVEMBER 10TH, 1937, FROM FATHER JIRJI DOUNA, HOMS.

After an exchange of views, *the Commission adopted the conclusions of Mlle. Dannevig's report* (Annex 23).

PETITION, DATED NOVEMBER 12TH, 1937, FROM M. ELIAS EL-YOUSSEF AND M. ATTIE ET-TAHER, DAMASCUS.

After an exchange of views, *the Commission adopted the conclusions of M. van Asbeck's report* (Annex 24).

PETITIONS DATED AUGUST 14TH AND OCTOBER 27TH, 1937, FROM DR. ANTOINE CHALFOUN, BEIRUT.

After an exchange of views, *the Commission adopted the conclusions of M. Palacios' report* (Annex 27).

**Togoland under British Mandate : Petition, dated August 9th, 1937, from M. Johann A. Agboka, President of the " Bund der Deutsch Togoländer ", Accra.**

After an exchange of views, *the Commission adopted the conclusions of Count de Penha Garcia's report (Annex 30).*

During the discussion, Count DE PENHA GARCIA pointed out that on a previous occasion<sup>1</sup> the Commission decided, in view of the observations of the French Government, to regard a petition from the " Bund der Deutsch Togoländer " as anonymous. It should be noted, in the case of the present petition, on the other hand, that the United Kingdom Government had recognised the existence of this body, whose headquarters were at Accra, that was to say, in the Gold Coast.

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#### TWENTY-THIRD MEETING.

*Held on Thursday, June 23rd, 1938, at 10.30 a.m.*

**Palestine : Petitions (continuation) : Report of the Sub-Committee on Petitions concerning the Plan for the Partition of Palestine, the General Policy of the Mandatory Power and the Suppression of the Disturbances in 1937 and subsequently.**

After an exchange of views, *the Commission adopted the conclusions of the Sub-Committee's report (Annex 13).*

**Palestine and Trans-Jordan : Observations of the Commission (continuation).**

After an exchange of views, *the Commission drew up the text of its observations concerning Palestine (Annex 31).*

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#### TWENTY-FOURTH MEETING.

*Held on Thursday, June 23rd, 1938, at 3.30 p.m.*

**New Guinea : Observations of the Commission.**

After an exchange of views, *the Commission adopted the text of its observations concerning New Guinea (Annex 31).*

**Procedure in the Council for hearing the Representatives of Committees.**

M. DE HALLER pointed out that the Council had slightly modified the procedure hitherto adopted for hearing the representatives of Committees. In future, they would not, as a general rule, be called upon *ex officio* to come to the Council table, but only when the Rapporteur of the Council, for special reasons, made such a request to the Secretary-General.

The CHAIRMAN hoped a decision would not be left to the last minute and that the representative of the Commission would be spared an unnecessary journey.

He regretted that he was obliged to leave before the end of the meeting ; before doing so, he wished most sincerely to thank his colleagues and the Director and members of the Mandates Section for their assistance.

M. RAPPARD, on behalf of his colleagues, thanked and congratulated the Chairman on the decision, tact and composure with which he had presided over the Commission's discussions.

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<sup>1</sup> See Minutes of the Twenty-fifth Session of the Commission, page 147.

**Representation of the Commission at the Session of the Council in September 1938.**

*The Commission decided that should it be invited to be represented at the Council session opening on September 9th, 1938, that duty would be fulfilled by the Chairman or, failing him, by the Vice-Chairman.*

(M. Rappard, Vice-Chairman, took the Chair.)

**Tanganyika Territory : Petition, dated September 30th, 1937, from Mr. S. V. Cooke, Mombasa (Kenya).**

After an exchange of views, *the Commission adopted the conclusions of M. Palacios' report (Annex 28).*

**Adoption of the List of Annexes to the Minutes of the Session.**

*The list of annexes was adopted.*

**Examination of the Draft Report of the Commission to the Council.**

After an exchange of views, *the Commission adopted the text of its report to the Council on the work of its thirty-fourth session (Annex 31).*

**Programme of Work for the Next Session of the Commission.**

*The Commission decided to instruct the Director of the Mandates Section to consult the Chairman by letter.*

**Close of the Session.**

The CHAIRMAN, after endorsing M. Orts' expression of thanks, declared the session closed.

ANNEX 1.

LIST OF DOCUMENTS<sup>1</sup> FORWARDED TO THE SECRETARIAT BY THE MANDATORY POWERS SINCE THE LAST EXAMINATION OF THE REPORTS RELATING TO THE FOLLOWING TERRITORIES :

- |  |                              |
|--|------------------------------|
| A. <i>Palestine and Trans-Jordan.</i>    | D. <i>Nauru.</i>             |
| B. <i>Tanganyika Territory.</i>          | E. <i>New Guinea.</i>        |
| C. <i>Togoland under French Mandate.</i> | F. <i>South West Africa.</i> |

A. PALESTINE AND TRANS-JORDAN.

*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 Trans-Jordan for the Year 1937.
2. Ordinances, Regulations, Rules, Orders and Notices ; Annual Volume for 1937.  
Volume I : Ordinances ;  
Volumes II and III : Regulations, Rules, Orders and Notices.
3. Legislation enacted in Trans-Jordan during 1937 (English translation from the Arabic) (with index for years 1918-1937).

*Various Official Publications and Documents.*

1. The Quarterly Report of the Department of Antiquities in Palestine<sup>2</sup> :  
Volume V, Index ;  
Volume VI, 3, 4, Index ;  
Volume VII.
2. Agreement between the Post Office of Palestine and the Post Office of Yugoslavia for the exchange of parcels by parcel post.<sup>2</sup>
3. Department of Migration. Annual Report, 1937.<sup>2</sup>
4. Letter, dated March 17th, 1938, from the United Kingdom Government communicating a Despatch from the Secretary of State for the Colonies to the High Commissioner for Palestine, concerning the Control of Immigration into Palestine for the Six Months following March 31st, 1938 (document C.P.M.2014) (Annex 3 of the present Minutes).
5. Palestine Official Gazette.<sup>2</sup>

B. TANGANYIKA TERRITORY.

*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 Tanganyika Territory for the Year 1937.
2. Ordinances enacted during the Year 1937.

*Various Official Publications and Documents.*

1. Blue Book for the Year ended December 31st, 1936.
2. Department of Agriculture : Annual Report, 1936.
3. Annual Report of the Education Department, 1936.
4. Sixteenth Annual Report of the Forest Department, 1936.
5. Game Preservation Department : Annual Report, 1936.
6. Annual Reports of the Judicial Department, 1936, 1937.

<sup>1</sup> (a) The documents mentioned in this list have been sent to the Secretariat for the use of the Permanent Mandates Commission. Unless otherwise indicated, the Members of the Commission should have received a copy of all these documents.

The annual reports and copies of laws, etc., are available only in the language in which they have been published by the mandatory Powers.

(b) The petitions forwarded by the mandatory Powers, together with their observations on those 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.

<sup>2</sup> Kept in the archives of the Secretariat.



7. Department of Lands and Mines : Annual Report, 1936.
8. Annual Reports of the Provincial Commissioners on Native Administration, 1937.
9. Annual Report on the Administration of the Police, 1936.
10. Annual Report on the Administration of the Prisons, 1936.
11. Annual Report of the Public Works Department, 1936.
12. Annual Report of the Post and Telegraphs Department of Kenya, Uganda and Tanganyika Territory, 1936.
13. Report of the General Manager on the Administration of the Railways and Ports Services for the Year ended December 31st, 1936.
14. Report on the Audit of the Accounts of the Tanganyika Railways and Ports Services for the Year ended December 31st, 1936.
15. Annual Report by the Treasurer for the Financial Year ended December 31st, 1936.
16. Annual Report on the Audit of the Accounts of the Treasurer for the Year ended December 31st, 1936.
17. Annual Report of the Department of the Veterinary Science and Animal Husbandry, 1936.
18. Ninth Annual Report of the East African Agricultural Research Station, Amani, 1936/37.
19. Annual Medical and Sanitary Report for the Years ended December 31st, 1935 and 1936, including the Annual Reports of the Medical Laboratory, Dar-es-Salaam.
20. Higher Education in East Africa. Report of the Commission appointed by the Secretary of State for the Colonies, September 1937.
21. Report of the Committee appointed to consider and advise on Questions relating to the Supply and Welfare of Native Labour in the Tanganyika Territory.
22. Report on the Control of the Natural Waters of Tanganyika and the Framework of a Water Law on which Such Control should be based, by F. E. Kanthack, C.M.G., M.Inst.C.E., M.I.Mech.E., F.R.S. (S.A.), Consulting Engineer.
23. Tanganyika Notes and Records—Nos. 3 and 4, 1937.
24. Three medical pamphlets.
25. Minutes of Meetings of the Legislative Council of Tanganyika Territory held on April 18th, October 18th, 19th, 20th, 21st, 22nd and 23rd, November 23rd, 24th and 26th, and December 4th, 9th and 10th, 1937, and March 29th, 1938.
26. Letter, dated March 31st, 1938, from the United Kingdom Government to the Secretary-General of the League of Nations on the Subject of the Wording of the Preamble to Orders-in-Council applied to Tanganyika (document C.P.M. 2018) (Annex 4 of the present Minutes).
27. The Tanganyika Territory Gazette. <sup>1</sup>

#### C. TOGOLAND UNDER FRENCH MANDATE.

##### *Annual Report and Legislation.*

Annual Report by the French Government to the Council of the League of Nations on the Administration under Mandate of the Territory of Togoland for the Year 1937 (legislation annexed hereto).

##### *Various Official Publications.*

1. Local Budget.  
Annexed Budget for Railways Operations and Wharves.  
Annexed Budget from Loan Funds :  
Financial Year 1937.
2. Official Gazette of the Territory of Togoland under French Mandate. <sup>1</sup>

#### D. NAURU.

##### *Annual Report and Legislation.*

Report to the Council of the League of Nations on the Administration of Nauru during the Year 1937 (legislation annexed hereto).

##### *Various Official Publications:*

Official Gazette of Nauru. <sup>1</sup>

<sup>1</sup> Kept in the archives of the Secretariat.

E. NEW GUINEA.

*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, 1936, to June 30th, 1937.
2. Laws of the Territory of New Guinea : Volume XIII : Years 1934, 1935 and 1936.
3. Ordinances Nos. 24-32, 1937.

*Various Official Publications.*

1. Copies of the Reports in respect of the Year 1936/37 that have been submitted to the Administrator of New Guinea by the Following Religious Missions operating in the Territory :
  - (a) Catholic Mission of the Divine Word, Central New Guinea ;
  - (b) Catholic Mission of Vunapope, Rabaul ;
  - (c) Marist Mission, Kieta ;
  - (d) Lutheran Mission, Finschhafen ;
  - (e) Methodist Missionary Society of New Zealand ;
  - (f) Methodist Missionary Society of Australasia ;
  - (g) Mission of Seventh-Day Adventists ;
  - (h) Anglican Mission, District of Au Gasmata ;
  - (i) Liebenzell Mission.
2. Sketch Plan of the Demonstration Plantation at Keravat (*cf.* Report on the Administration of the Territory of New Guinea, 1936/37, Sections 237-255).<sup>1</sup>
3. Map showing Route followed by Patrol Officer L. G. Vial (*cf.* Report on the Administration of the Territory of New Guinea, 1936/37, pages 143-146).<sup>1</sup>
4. The New Guinea Agricultural Gazette : Volumes 1 to 4, Years 1935-1938.<sup>1</sup>
5. Report on the Forest Resources of the Territories of Papua and New Guinea, by C. E. Lane-Poole, 1925.<sup>1</sup>
6. Recruiting in the Mandated Territory of New Guinea and its Influence on the National Life of the Natives, by G. Pilhofer.
7. Reply to Pilhofer's Treatise. Tables of Comparative Statistics : Birthplace of Labourers working on the Morob Goldfield from 1925 to 1936.
8. Public Notice referring to Measures of Safety to be taken in case of an Expected Outbreak of Volcanic Activity.
9. Official Gazette of New Guinea.<sup>1</sup>

*Document handed in by the Accredited Representative to the Commission at the Seventeenth Meeting of its Thirty-fourth Session on June 20th, 1938.*<sup>1</sup>

Anthropological Research in Australia and the Western Pacific, 1927-1937, by A. P. Elkin.

F. SOUTH WEST AFRICA.

*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 1937.
2. The Laws of South West Africa, 1936.

*Various Official Publications.*

1. Accounts of the Administration of South West Africa for the Financial Year 1936/37, together with the Report of the Controller and Auditor-General thereon.
2. Estimates of the Revenue to be collected and of the Expenditure to be defrayed from Revenues and Loan Funds during the Year ending March 31st, 1939.
3. Report of the Board of Management of the Land and Agricultural Bank of South West Africa for the Year ended December 31st, 1937.
4. Map of the Territory 1 : 800,000 ; Native Reserves.<sup>1</sup>
5. Official Gazette of South West Africa.<sup>1</sup>

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<sup>1</sup> Kept in the archives of the Secretariat.

ANNEX 2.

AGENDA OF THE THIRTY-FOURTH SESSION OF THE PERMANENT  
MANDATES COMMISSION.

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- I. Opening of the Session.  
II. Election of the Chairman and Vice-Chairman of the Commission for the Year 1938/39.  
III. Examination of the Annual Reports of the Mandatory Powers :<sup>1</sup>

Palestine and Trans-Jordan, 1937.  
Syria and Lebanon, 1937.<sup>2</sup>  
Tanganyika Territory, 1937.  
Togoland under French Mandate, 1937.  
Nauru, 1937.  
New Guinea, 1936/37.  
South West Africa, 1937.

IV. Petitions :

A. Petitions rejected by the Chairman as not deserving the Commission's attention :  
Report by the Chairman (document C.P.M.2076 (I)).

B. Petitions to be examined :

1. Palestine.

(a) Petition, dated July 1936, from the "Nessiut" (Presidency) of the New Zionist Organisation, London, forwarded on August 14th, 1936, by Dr. H. Levi, Member of the "Nessiut" (document C.P.M.1839).

Observations of the United Kingdom Government, dated April 30th, 1937, and March 18th, 1938 (documents C.P.M.1892 and 2016).

(Rapporteur : M. Rappard.)

(b) Petition, dated February 25th, 1937, from the Native Races and the Liquor Traffic United Committee, London (document C.P.M.1890).

Observations of the United Kingdom Government, dated October 12th, 1937 (document C.P.M.1947).

(Rapporteur : M. Sakenobe.)

(c) Petition, dated July 28th, 1937, from M. Asa Whitney, Sarisbury Green (Hants), England (document C.P.M.1930).

Observations of the United Kingdom Government, dated February 15th, 1938 (document C.P.M.2013).

(Rapporteur : Count de Penha Garcia.)

(d) Letter, dated August 12th, 1937, from M. Mohammad Amin Husseini, former President of the Supreme Arab Committee, Jerusalem, transmitted on October 27th, 1937, by the United Kingdom Government with its observations (document C.P.M.1965).

(Rapporteur : Mlle. Dannevig.)

(e) Petition, dated January 1938, from the "Nessiut" (Presidency) of the New Zionist Organisation, London, transmitted on January 18th, 1938, by Mr. A. Abrahams, Political Secretary (document C.P.M.2012).

Observations of the United Kingdom Government, dated June 3rd, 1938 (document C.P.M.2047.)

(Rapporteur : M. Palacios.)

(f) Letter, dated May 4th, 1938, from the President of the Jewish Agency for Palestine, accompanying a Memorandum on the Development of the Jewish National Home in Palestine, in 1937, transmitted on May 27th, 1938, by the United Kingdom Government with its observations (document C.P.M.2028).

(Rapporteur : Count de Penha Garcia.)

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<sup>1</sup> The examination of the annual report on the Cameroons under French mandate has been deferred to the autumn session.

<sup>2</sup> The examination of the report on the situation in Syria and Lebanon in 1937 has been deferred to the autumn session : see pages 14.

- (g) Petition, dated July 27th, 1937, from M. Justin Godart, Chairman of the Committee for the Defence of the Rights of Jews in Central and Eastern Europe, Paris (document C.P.M.1925).<sup>1</sup>  
Observations of the United Kingdom Government, dated October 11th, 1937 (document C.P.M.1946).
- (h) Petition, dated July 29th, 1937, from M. Shukry Eff-Taji, Chairman of the Arab Committee of the Citrus Fruits Industry, Jaffa, transmitted on August 25th, 1937, by the United Kingdom Government (document C.P.M.1940).  
Observations of the United Kingdom Government, dated November 15th, 1937 (document C.P.M.1999).
- (i) Petitions, dated July 13th, 1937 :  
(1) From the Arab Women's Committee, Jerusalem ;  
(2) From the Jerusalem National Committee ;  
transmitted on August 14th, 1937, by the United Kingdom Government (document C.P.M.1941).
- (j) Petition, dated July 18th, 1937, from Mgr. Gregorius Hajjar, Metropolitan of Acre, Haifa and Nazareth, Haifa, transmitted on October 5th, 1937, by the United Kingdom Government (document C.P.M.1943).
- (k) Telegram, dated September 13th, 1937, from the Arab Higher Committee, Jerusalem, transmitted on September 16th, 1937, by the United Kingdom Government (document C.P.M.1944).
- (l) Petition, dated October 2nd, 1937, from M. Dahter, Secretary-General of the " Comité syro-palestinien ", Cairo (document C.P.M.1949).  
Observations of the United Kingdom Government, dated December 9th, 1937 (document C.P.M.2004).
- (m) Petition, dated July 14th, 1937, from the Arab Chamber of Commerce, Jerusalem, transmitted on November 1st, 1937, by the United Kingdom Government with its observations (document C.P.M.1966).
- (n) Petitions, dated :  
(1) July 10th, 1937, from the President of the Arab Committee, Jaffa ;  
(2) June 14th, 1937, from Ahmad Effendi Shuqair, Acre ;  
(3) July 21st, 1937, from M. Mohammad Al-Hadi Al-Yasharti, Acre ;  
transmitted on October 21st, 1937, by the United Kingdom Government with its observations (document C.P.M.1967).
- (o) Petition, dated July 21st, 1937, from M. Attia Jweid, Hulah Area (Northern Palestine), transmitted on November 3rd, 1937, by the United Kingdom Government with its observations (document C.P.M.1976).
- (p) Petition (undated) from M. Kamel Husein Yousef and other signatories, Hulah Area (Northern Palestine), transmitted on November 17th, 1937, by the United Kingdom Government with its observations (document C.P.M.2001).
- (q) Petition (undated) from M. Naf'i Deeb Missilya, and other Inhabitants of villages in the Jenin sub-district, transmitted on November 18th, 1937, by the United Kingdom Government with its observations (document C.P.M.2002).
- (r) Petition, dated November 2nd, 1937, from Ragheb Bey Nashashibi, President of the National Defence Party, Jerusalem, transmitted on January 5th, 1938, by the United Kingdom Government with its observations (document C.P.M.2005).
- (s) Petition, dated August 21st, 1937, from M. Anton Yacoub Al-'Ama, Bethlehem, transmitted on January 8th, 1938, by the United Kingdom Government with its observations (document C.P.M.2007).
- (t) Petition, dated November 15th, 1937, from Ragheb Bey Nashashibi, President of the National Defence Party, Jerusalem, transmitted on January 26th, 1938, by the United Kingdom Government with its observations (document C.P.M.2008).

<sup>1</sup> The petitions (g) to (w) inclusive were entrusted for examination to a Sub-Committee composed of M. van Asbeck, M. Rappard and Count de Penha Garcia (see Minutes, pages 27).

- (u) Petitions, dated October 26th, November 11th and 16th, 1937, from Hamad Hilmy Pasha and other members of the former Arab Higher Committee, now in the Seychelles, transmitted on January 27th, 1938, by the United Kingdom Government with its observations (documents C.P.M. 2011 and 2011(a)).

Supplementary observations of the United Kingdom Government, dated April 20th, 1938 (document C.P.M.2019).

- (v) Petitions, dated :

(1) February 17th, 1938, from the Arab Women's Committee, Jerusalem ;

(2) February 5th, 1938, from a delegation of Arab Ladies of Jerusalem, transmitted on April 28th, 1938, by the United Kingdom Government with its observations (document C.P.M.2020).

- (w) Petition, dated August 15th, 1937, from M. Jacob H. Salavan, Bnei-Brak, transmitted on May 18th, 1938, by the United Kingdom Government with its observations (document C.P.M.2024).

(Rapporteurs : M. van Asbeck, M. Rappard, Count de Penha Garcia.)

## 2. Syria and Lebanon.

- (a) Petitions (eight in number) concerning the Sanjak of Alexandretta, transmitted on November 6th, 1937, by the French Government with its observations (document C.P.M.1972).<sup>1</sup>

(Rapporteur : Mlle. Dannevig.)

- (b) Petitions (four in number) relating to the question of Syrian Unity, transmitted on November 6th, 1937, by the French Government with its observations (document C.P.M.1973).<sup>2</sup>

(Rapporteur : M. Sakenobe.)

- (c) Petition, dated November 5th, 1937, from M. Abdel Kader and M. Fouad Ghandour, Beirut, transmitted in December 1937 by the French Government with its observations (document C.P.M.2003).

(Rapporteur : Count de Penha Garcia.)

- (d) Petition, dated December 27th, 1937, from M. Michel Sayur, Rome, and other Heirs of the late Antoun Youssef Sayur, submitted through the Agency of Maître Emile Zalzal, Advocate, Beirut (document C.P.M. 2010).

Observations of the French Government dated June 4th, 1938 (document C.P.M.2033).

(Rapporteur : Lord Hailey.)

- (e) Petition, dated September 25th, 1937, from M. Kassem Moustapha, M. Khaled Hamad El-Khatib and other signatories of the El-Arkoub district, transmitted on May 24th, 1938, by the French Government with its observations (document C.P.M.2025).

(Rapporteur : M. Palacios.)

- (f) Petition, dated October 24th, 1937, from M. Sami Slim, Tripoli, transmitted on May 24th, 1938, by the French Government with its observations (document C.P.M.2026).

(Rapporteur : M. Sakenobe.)

- (g) Petitions (five in number) dated September 25th, December 10th, 14th and 15th, 1937, and January 9th, 1938, from Inhabitants of Damascus and Homs, transmitted on May 27th, 1938, by the French Government with its observations (document C.P.M.2027).

(Rapporteur : Count de Penha Garcia.)

- (h) Petition, dated March 1938, from M. Khaled Daghestani, Homs, and other Circassians of the Mohafazats of Homs and Hama, transmitted on May 31st, 1938, by the French Government with its observations (document C.P.M.2030).

(Rapporteur : M. Sakenobe.)

- (i) Petitions relating to the legislative elections which took place in the Mohafazat of Latakia in October 1937, transmitted on May 30th, 1938, by the French Government with its observations (document C.P.M.2031).

(Rapporteur : M. Palacios.)

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 138.

<sup>2</sup> The examination of this petition has been postponed (see Minutes, page 189).

- (j) Petitions (sixteen in number) concerning the Sanjak of Alexandretta, transmitted on May 31st, 1938, by the French Government with its observations (document C.P.M.2032).<sup>1</sup>  
(Rapporteur : Mlle. Dannevig.)
- (k) Petitions, dated December 2nd and 15th, 1937, from M. Rachid Youssef Beidoun, from M. Ibrahim Fayad and other signatories, Beirut, transmitted on June 2nd, 1938, by the French Government with its observations (document C.P.M.2034).  
(Rapporteur : M. Palacios.)
- (l) Petition, dated November 10th, 1937, from Father Jirji Douna, Homs, transmitted on June 2nd, 1938, by the French Government with its observations (document C.P.M.2035).  
(Rapporteur : Mlle. Dannevig.)
- (m) Petition, dated November 12th, 1937, from M. Elias El-Youssef and Attie Et-Taher, Damascus, transmitted on June 2nd, 1938, by the French Government with its observations (document C.P.M.2036).  
(Rapporteur : M. van Asbeck.)
- (n) Petition, dated November 25th, 1937, from M. Mohammed Adib Khaled and other signatories, Tripoli, transmitted on June 2nd, 1938, by the French Government with its observations (document C.P.M.2037).  
(Rapporteur : M. Sakenobe.)
- (o) Petitions (fifteen in number) from Inhabitants of Upper Jezireh, transmitted on June 2nd, 1938, by the French Government with its observations (document C.P.M.2038).  
(Rapporteur : M. Sakenobe.)
- (p) Petitions (four in number) from Chaker Nimet Bey El Chaabani, Beirut, transmitted on June 3rd, 1938, by the French Government with its observations (document C.P.M.2039).<sup>1</sup>  
(Rapporteur : Count de Penha Garcia.)
- (q) Petitions, dated August 14th and October 27th, 1937, from Dr. Antoine Chalfoun, Beirut, transmitted on June 7th, 1938, by the French Government with its observations (document C.P.M.2041).  
(Rapporteur : M. Palacios.)
3. Tanganyika Territory.
- (a) Petition, dated September 30th, 1937, from Mr. S. V. Cooke, Mombasa (Kenya) (document C.P.M.2006).  
Observations of the United Kingdom Government, dated May 2nd, 1938 (document C.P.M.2021).  
(Rapporteur : M. Palacios.)
- (b) Petition, consisting of two resolutions passed on September 25th, 1937, at a meeting of the Indians at Dar-es-Salaam, (held under the auspices of the Indian Association), transmitted on April 4th, 1938, by the United Kingdom Government with its observations (document C.P.M.2017).  
(Rapporteur : M. Giraud.)
4. Togoland under British Mandate.
- Petition, dated August 9th, 1937, from M. Johann A. Agboka, President of the "Bund der Deutsch Togoländer", Accra, transmitted on April 29th, 1938, by the United Kingdom Government with its observations (document C.P.M.2022).  
(Rapporteur : Count de Penha Garcia.)

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<sup>1</sup> The examination of this petition has been postponed (see Minutes, page 191).

C.P.M.2014.

ANNEX 3.

PALESTINE.

DESPATCH FROM THE SECRETARY OF STATE FOR THE COLONIES TO THE  
HIGH COMMISSIONER FOR PALESTINE, CONCERNING THE CONTROL OF  
IMMIGRATION INTO PALESTINE FOR THE SIX MONTHS FOLLOWING  
MARCH 31ST, 1938.

LETTER, DATED MARCH 17TH, 1938, FROM THE UNITED KINGDOM GOVERNMENT TO  
THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS.

I am directed by Viscount Halifax to transmit to you, for communication to the Permanent Mandates Commission, the accompanying copy of a despatch from the Secretary of State for the Colonies to the High Commissioner for Palestine, conveying the decision of His Majesty's Government with regard to the control of immigration into Palestine for the six months following March 31st, 1938.

(Signed) LACY BAGGALLAY.

\* \* \*

London, 10th March, 1938.

To the High Commissioner for Palestine,  
Sir Harold MacMichael, K.C.M.G., D.S.O.,  
Jerusalem.

I have the honour to inform you that His Majesty's Government have recently had under consideration the question of the procedure to be adopted for the regulation of Jewish immigration into Palestine on the expiry of the special restrictions which have been imposed for the eight months period August 1937 to March 1938, in accordance with the terms of paragraph 6 of the Statement of Policy of July last (Cmd.5513).

2. I desire, in the first place, to explain the grounds on which His Majesty's Government felt it necessary to propose, in the Statement of Policy, that Jewish immigration during the eight months period August 1937 to March 1938 should be subject to an overriding maximum of 8,000. You will be aware that in Part II (Chapter X) of their report, the Royal Commission recommended that a "political high level" of Jewish immigration should be laid down by His Majesty's Government and that the high level for the next five years should be fixed at 12,000 per annum. But Part II of the report presupposed the continuance in operation of the existing mandate and its major recommendations have not yet been adopted by His Majesty's Government, who came to the conclusion that the best and most hopeful solution lay in a scheme of partition on the lines recommended in Part III of the Royal Commission's report.

3. It was clear that the decision of His Majesty's Government in favour of the policy of partition could not be translated into action until after a further period of investigation and preparation, and it became necessary to consider the question of the steps to be taken to regulate Jewish immigration during the interim period. In Chapter XXII of their report, the Commission dealt with the transition period "in the immediate future *if it should be agreed to terminate the mandate and establish a treaty system on a basis of partition*". For this period the Commission proposed that, instead of the "political high level", there should be a territorial restriction on Jewish immigration. "No Jewish immigration into the Arab area should be permitted . . . The volume of Jewish immigration should be determined by the economic absorptive capacity of Palestine less the Arab area."

4. The Commission had not, however, made any recommendation with regard to the control of immigration during the immediate interim period between the issue of the Statement of Policy and a final decision with regard to partition. As the prospective boundaries of the Arab and Jewish areas could not be predicted and must remain uncertain until a decision has been taken on the report of the new Commission which will shortly visit Palestine, it was not practicable to adopt the procedure recommended by the Royal Commission in respect of the "transition period" to which they refer in Chapter XXII of their report.

5. Seeing that the declared object of their policy, as set out in the White Paper of July last, was a scheme of partition under which Jewish immigration would be confined to a limited area, His Majesty's Government felt that it was impossible, during the interim period of preparatory investigation, to allow immigration to be determined by the economic absorptive capacity of the whole of Palestine, and that a temporary and admittedly arbitrary restriction

of immigration was inevitable. It was in accordance with this view that an overriding limit of 8,000 immigrants was laid down for the eight months August 1937 to March 1938, and powers for this purpose were conferred upon the High Commissioner by the addition of a new section (5 A) to the Immigration Ordinance.

6. Section 5 A of the Immigration Ordinance, which empowers the High Commissioner to prescribe the maximum aggregate number of foreigners to be admitted to Palestine as immigrants during any specified period, to prescribe categories and to fix the maximum number of persons to be admitted in respect of each category, expires on March 31st, 1938, "or on such later date as the High Commissioner in Council, with the approval of the Secretary of State, by notice in the *Gazette* may appoint". After full consideration, His Majesty's Government have decided that there has been no such change in the situation since August as would justify withdrawal from the High Commissioner of the powers of prescription conferred upon him by Section 5 A, and that the validity of this section should be extended for a further period of twelve months. If, at the end of that period, it is still considered essential that the High Commissioner should retain these additional powers, the necessary legislation will be enacted. At the same time, His Majesty's Government desire to make it known that it is their intention, once the boundaries of the various areas under an equitable and practicable scheme of partition have been defined and so long as the existing mandate continues in operation, that the entry of Jewish immigrants shall be regulated, so far as concerns the non-Arab areas, by the principle of economic absorptive capacity.

7. Consideration has also been given to the question of the specific application after March 31st next of the powers conferred by Section 5 A of the Immigration Ordinance. This section is purely permissive, and His Majesty's Government have decided that, in the first instance, the power of prescription should be exercised by the High Commissioner for a period of six months only—from April to September 1938—leaving open for later consideration the procedure to be adopted after that date.

8. As regards the restrictions to be imposed, the attention of His Majesty's Government has been drawn to various representations received from the Jewish Agency and from other sources; and they realise that there is considerable force in the contentions which have been submitted in favour of the more generous admission, on economic grounds, of persons of independent means and, on grounds of humanity, of the class of dependant defined in Section 2 (1) of the Immigration Ordinance—that is to say, wives and children of immigrants.

9. With these considerations in mind, and with a view to diminishing to some extent the element of arbitrariness which is involved under present temporary arrangements while at the same time avoiding any considerable change in the total rate of immigration in the immediate interim period, His Majesty's Government have decided that the following procedure shall be adopted for the six months period April-September 1938 :

(a) *Persons of Independent Means* (Category A (i) — capital of £1,000).

His Majesty's Government have decided that 2,000 shall be fixed as the maximum number of immigrants of this category. There will, however, be no objection to the admission, if you see fit, within this quota, of ten pensioners (Category A (iv) and twenty agricultural settlers with capital of not less than £500 (Category A (v)), whose admission was recommended by your predecessor. Categories A (ii) (members of professions with capital of £500) and A (iii) (persons skilled in trades or crafts with capital of £250) will remain closed.

(b) *Students* (Category B (iii)).

Students as defined in Category B (iii)—that is to say, "any student whose admission to an educational institution in Palestine and whose maintenance is assured until such time as he is able to support himself", will be admitted without numerical restriction, subject to compliance with the conditions imposed in the Immigration Regulations. Categories B (i) (orphans) and B (ii) (persons of religious occupation) will remain closed.

(c) *Labour Immigrants* (Category C).

I understand that, according to estimates prepared by the Government of Palestine' Arab unemployment in seven selected towns amounted to 21,000, and Jewish unemployment (combining whole and part time unemployment) amounted to 12,000 on December 31st last. In the circumstances, it is obvious that at the present time the admission of additional immigrants of the labour class is not justifiable. His Majesty's Government have, however, approved of your fixing a quota of 1,000 for this category, on the understanding that it will be left to you to decide, in the light of economic circumstances, whether any labour immigration shall be permitted during the six months period, and if so, when and to what extent.



(d) *Dependants* (Category D).

Near dependants, as defined in Section 2 (1) of the Immigration Ordinance—that is to say, wives and children, both of new immigrants and of immigrants who have already entered the country legally—will be admitted without numerical restriction, subject to proper enquiry and investigation. As regards other dependants (parents, etc.), a quota of 200 will be allowed in order to meet individual cases of exceptional hardship.

10. I shall be obliged if you will take such legal and administrative action as is necessary to give effect to these decisions. You may furnish the Jewish Agency with a copy of this despatch, which should also be published in the *Gazette*.

(Signed) W. ORMSBY-GORE.

C.P.M.2018.

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ANNEX 4.

TANGANYIKA TERRITORY.

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LETTER, DATED MARCH 31ST, 1938, FROM THE UNITED KINGDOM GOVERNMENT TO THE SECRETARY-GENERAL OF THE LEAGUE OF NATIONS ON THE SUBJECT OF THE WORDING OF THE PREAMBLE TO ORDERS-IN-COUNCIL APPLIED TO TANGANYIKA.

I am directed by Viscount Halifax to refer to the letter from this department No. W 170/170/98 of January 12th, 1928,<sup>1</sup> on the subject of the wording of the preamble to Orders-in-Council applied to Tanganyika.

2. In this letter, it was stated that steps would be taken to ensure that reference to the mandate would be made in any future Order-in-Council dealing with the Territory. This assurance was given in view of the following remark by the Permanent Mandates Commission included in their "General Observations" on the annual report of Tanganyika of 1926<sup>2</sup>:

"The preamble to the 'Tanganyika (Legislative Council) Order-in-Council 1926' refers specifically (as enabling His Britannic Majesty to make such an Order) to the stipulation in the Foreign Jurisdiction Act, 1890, which provides that His Majesty's jurisdiction may be exercised in a foreign country 'in the same and as ample a manner as if His Majesty had acquired that jurisdiction by the cession or conquest of territory'. Reference is also made in the same preamble to the power and jurisdiction which His Majesty has 'by treaty, grant, usage, sufferance, and other lawful means'. The Commission ventures to suggest that specific mention in important Acts of this kind of the fact that the territory is governed under mandate on behalf of the League of Nations would make its status and the basis of the jurisdiction of the mandatory Power therein clearer."

3. It will be observed that while the suggestion of the Commission referred only to important Acts, the assurance given in the letter from this department under reference applied to all future Orders-in-Council. This wording was inadvertent, and Lord Halifax is advised that it has given rise to practical difficulties, since in amending Orders of an unimportant character it is usually unnecessary to refer in the preamble to anything but the existence of the principal Order. His Majesty's Government therefore intend in future to conform to the suggestion made by the Permanent Mandates Commission in the observations quoted above, and only to insert a reference to the mandate in important Orders-in-Council.

4. Lord Halifax would be grateful if the foregoing observations could be brought to the notice of the Members of the Permanent Mandates Commission.

(Signed) D. F. HOWARD.

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Notes by the Secretariat of the League of Nations:

<sup>1</sup> See *Official Journal*, IXth Year, No. 3, March 1928, page 329.

<sup>2</sup> See Minutes of the Eleventh Session of the Commission (document C.348.M.122.1927.VI, page 202).

ANNEX 5.

PETITIONS REJECTED UNDER ARTICLE 3 OF THE RULES OF  
PROCEDURE IN RESPECT OF PETITIONS.

REPORT BY THE CHAIRMAN.

I have the honour, in conformity with the terms of Article 3 of the Rules of Procedure, to submit the following report on petitions received since our thirty-third session which I do not regard as satisfying the conditions of admissibility required by the Rules of Procedure in respect of petitions concerning mandated territories :

PALESTINE AND TRANS-JORDAN.

1. Letter, dated October 23rd, 1937, from M. Randerer, General Secretary of the Young Muslim Debating Society, Durban (South Africa).
2. Letter, dated December 11th, 1937, from Hamad El Bassel Pasha, Deputy in the Egyptian Parliament, transmitting copy of a letter, dated November 21st, 1937, signed by fifty-nine Egyptian Deputies and addressed to the British Ambassador, Cairo ;
3. Telegram, dated December 28th, 1937, from the Women's Arab League, Highlandpark (United States of America).

These communications, which relate to the measures taken against Arab organisations and chiefs in Palestine, merely reproduce a recent petition and do not contain any new information.

C.P.M.2074.

ANNEX 6.

PALESTINE.

COMMUNICATIONS FROM PRIVATE SOURCES RECEIVED ON THE OCCASION  
OF THE EXAMINATION OF THE PROBLEM OF THE STATUS OF PALESTINE.

*Third Supplementary List.*<sup>1</sup>

1. M. Abraham Altabeb, former Rabbi, Sofia. — Letter dated September 27th, 1937.
2. M. Kaisum Haji N. Gidimaiz, Honorary Secretary-General of the All India Memon Conference, Dhoraji (India). — Letter dated November 9th, 1937.
3. M. David H. Asriel, Engineer, Belgrade. — Letter dated December 17th, 1937.
4. The President of the " Fédération sioniste de Grèce," Salonica. — Letter dated February 6th, 1938.
5. M. Natim Essir, Young Muslims Association, Baghdad. — Letter dated May 7th, 1938.
6. M. Mohammed Salih El Qizaz, Head of the Association of the Workers of Iraq, Baghdad. — Letter dated May 9th, 1938.

C.P.M.2082(1).

ANNEX 7.

PALESTINE.

PETITION, DATED JULY 1936, FROM THE " NESSIUT " (PRESIDENCY) OF THE  
NEW ZIONIST ORGANISATION, LONDON, FORWARDED ON AUGUST 14TH, 1936,  
BY DR. H. LEVI, MEMBER OF THE " NESSIUT ".

REPORT BY M. RAPPARD.

This petition was communicated on August 14th, 1936, to the Chairman of the Mandates Commission in a letter from Dr. H. Levi, a member of the Presidency of the New Zionist Organisation. The petition, declared to be admissible after the Chairman of the Mandates

<sup>1</sup> For the previous lists, see Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 222-225, and Minutes of the Thirty-third Session, page 172.

Commission had consulted his colleagues, was communicated to the Government of the mandatory Power on November 18th, 1936. On April 30th, 1937, the United Kingdom Government informed the Secretary-General of the League that it would prefer not to offer any observations until it had received and considered the report of the Royal Commission on Palestine. On March 18th, 1938, the United Kingdom Government informed the Secretary-General that it did not think it necessary to offer any observations on this petition in view of its previous statements of its policy in Palestine.

The petition comprises : (a) A letter (thirteen pages) from Dr. H. Levi to the Chairman of the Commission, and (b) A memorandum (thirty-four pages) entitled " The Meaning of the Palestine Mandate ", designed to prove that the intention of the authors of the Palestine mandate and the Balfour Declaration could only have been to prepare for the establishment of a Jewish State.

In his letter, Dr. Levi attempts first of all to demonstrate that, in rejecting the previous petitions from Mr. Weinshall, the Mandates Commission made a mistake and stultified itself. He then lays stress upon the importance which, in his view, attaches to the question of the correct interpretation of the fundamental principle of the Palestine mandate, and seeks to show that the only interpretation that can be held correct is that it was always intended that the mandated territory should become a Jewish State. His reasoning on this point amounts to the following syllogism :

Either the mandate must go on indefinitely, or it must sooner or later come to an end ; when it comes to an end, it can be replaced only by an Arab State or a Jewish State. Now, nobody can maintain either that the mandate ought to go on indefinitely or that it was meant to prepare the way for the establishment of an Arab State.

*Ergo*, the purpose of the mandate can only be held to be the creation of a Jewish State.

The petitioner's memorandum itself takes the form of a plea on historical and legal grounds in favour of the same thesis.

I see no object in going through these two documents point by point. In the first place, I do not feel called upon to defend the Commission against the criticisms in the earlier part of Dr. Levi's letter. What the Commission has to judge is not its own procedure and previous decisions, but only the policy of the mandatory Power.

As to that policy, it is obviously passing through a process of evolution ; but neither under the mandatory regime as conducted before the mandatory Power decided, in consequence of the Royal Commission's report, to consider partition, nor since, has the Council of the League ever accepted the petitioner's view of the interpretation of the mandate. On the contrary, it has always unanimously endorsed the interpretation that, while the mandate was intended to facilitate the establishment of a Jewish National Home in Palestine, it did not make it incumbent on the mandatory Power to establish a Jewish State there. Now, since the Government of the mandatory Power, which issued the Balfour Declaration, and the Council, which decided the terms of the mandate, have always been at one in rejecting the interpretation of their intentions which the petitioners uphold, further discussion of the point seems superfluous ; for it is surely evident that, even had the terms of the Balfour Declaration and the mandate been in themselves more favourable to the petitioner's thesis than they actually are, the responsible authors of those public acts are themselves the best judges of their interpretation.

If my colleagues agree with this view, they might signify the fact by adopting the following conclusion :

" The Commission,

" Having considered the letter, dated August 14th, 1936, from Dr. H. Levi, and the petition, dated July 1936, from the Presidency of the New Zionist Organisation, London, in the light of the Balfour Declaration, the terms of the mandate, the decisions of the mandatory Power and the Council concerning the Palestine mandate, and the special observations of the mandatory Power :

" Does not feel that any further action need be taken on this petition."

C.P.M.2067(1).

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### ANNEX 8.

### PALESTINE.

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PETITION, DATED FEBRUARY 25TH, 1937, FROM THE NATIVE RACES AND THE LIQUOR TRAFFIC UNITED COMMITTEE, LONDON.

REPORT BY M. SAKENOBE.

In a letter, dated February 25th, 1937, to the Secretary-General of the League of Nations, the Native Races and the Liquor Traffic United Committee, London, called the attention of the Mandates Commission to the continued increase in the imports of intoxicating liquors to Palestine. After referring to a question asked in the House of Commons on the subject and also to a tabular statement submitted by the United Kingdom Government to the House

in that connection, the petitioner states that there was an increase in the importation from Syria into Palestine in 1935 of over one million litres as compared with the 1934 figures and that the amount of consumption per head in 1935 was double that of 1933. The petitioner further states that it views with great concern the introduction of Western drinking customs into a country where the majority of the inhabitants are enjoined by their religion to abstain from intoxicants.

In a letter, dated October 12th, 1937, the United Kingdom Government forwarded a memorandum containing its observations on the petition. The memorandum deals at some length with the whole question of importation, production and consumption of intoxicating liquors in Palestine. Three statistical tables are attached :

*Table I.* — Statistics showing the importation and the home production for local consumption of wine, spirits and beer in Palestine, 1929-1936, with consumption per head of total population, town population and non-Moslem population in each year ;

*Table II.* — Consumption of beer, wine and spirits per head of population in certain Western countries in the latest available periods ;

*Table III.* — Number of different persons convicted in Palestine for drunkenness, 1933-1936.

The mandatory Power first draws attention to the fact that Palestine being itself a relatively considerable producer of certain alcoholic liquors, the trend of consumption of alcoholic liquors in Palestine must necessarily be considered on the basis, not so much of the importation, but of the consumption per head of the population of the country. It points out also that it must be borne in mind that the age distribution of the population in Palestine is abnormal, as the result of heavy Jewish immigration in recent years, and that the countries from which many of the immigrants come are heavy consumers of alcoholic liquors, as is shown in Table II. Having taken into consideration all these factors and having compared the figures in the tables, the Mandatory Power comes to the conclusion that, in comparison with other countries of Europe, the per head consumption of intoxicating liquors in Palestine is relatively moderate, even on the assumption that the Moslem population consumed no alcoholic liquors whatever. Referring to the petitioner's statement concerning the increase of imports from Syria, the mandatory Power explains that this is due to the increase in the consumption of beer, which is most marked, the consumption of 0.65 litre per head in 1929 rising to 2.33 litres per head in 1936. These figures, however, it is stated, are still very far below those of the European countries whence the immigrants into Palestine have mainly come. The establishment of a brewery in Syria in 1933 led to a lowering of price in Palestine and to a great increase in the import of Syrian beer in the years 1934-1935. But the Palestine brewery began production in December 1935, and its products released for local consumption in 1936 rose to over 2 million litres, imports from Syria declining from 2,587,830 litres in 1935 to 96,019 litres in 1936. With regard to Moslem abstention from liquor, the mandatory Power states that this is contrary to facts, as is indicated by the fact that "Arak" is an Arabic word and that about half of the spirits consumed in Palestine is "Arak". The statistics given in Table III also tend to show that this assumption is not justified by the facts.

Having thus examined the petition in the light of the mandatory Power's observations, I propose the adoption of the following conclusion :

"The Commission,

"Having examined the petition, dated February 25th, 1937, from the Native Races and the Liquor Traffic United Committee, London, and the observations of the mandatory Power thereon :

"Considers that no recommendation need be made to the Council in regard to the petition."

C.P.M.2055(1).

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ANNEX 9.

PALESTINE.

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

REPORT BY COUNT DE PENHA GARCIA.

Mr. Asa Whitney submitted a petition to the League of Nations in July 1937, recapitulating the terms of a request addressed in 1934 by himself and six other signatories to the High Commissioner for Palestine and the Government of the United Kingdom. The complaints of the petitioners relate to works in process of erection by the Palestine Electric Corporation

on the Lake of Galilee, which are alleged to desecrate the lake, to impair its beauty and to cause damage to riparian property. The Government of Palestine appointed a Committee to study the question. The Committee found that the Company was empowered, under the terms of its concession, to use the lake as a reservoir for the storage of water for hydro-electrical purposes, on condition that the level of the water was maintained between maximum and minimum limits to be established by agreement with the High Commissioner. For the purpose of determining the two limits, agreed figures were taken as representing the approximate maximum and minimum level of the waters of the lake over a certain number of years. The agreed figures were not, however, to be final. As regards effective damage to riparian property, the petitioner stated that there was a clause in the concession requiring the Company to compensate those concerned. A number of documents in support of these contentions were attached to the petition.

The mandatory Power, in its observations, states that the works in question are works of public utility, and that the authorities have been concerned to safeguard, as far as possible, the natural beauties and religious associations of the Lake. Steps have further been taken to protect the legitimate interests of riparian property owners. Where such protection cannot be afforded, compensation is paid. It also appears from these observations, that the Palestine Government will continue, as far as possible, to take the petitioner's demands into account when the two levels of the lake come to be permanently adopted.

In these circumstances, I propose the adoption by the Commission of the following conclusion :

“ The Commission,  
“ Having examined the petition, dated July 28th, 1937, from Mr. Asa Whitney, Sarisbury Green, and the observations of the mandatory Power thereon :  
“ Is of opinion that this petition does not call for any special action.”

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ANNEX 10.

C.P.M.2046(1).

PALESTINE.

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LETTER, DATED AUGUST 12TH, 1937, FROM M. MOHAMMAD AMIN HUSSEINI, FORMER PRESIDENT OF THE SUPREME ARAB COMMITTEE, JERUSALEM.

REPORT BY Mlle. DANNEVIG.

The petition refers to an article published in the *Palestine Post*, Jerusalem, August 8th, 1937, reproduced in the annex to the petition, in which it is reported that Dr. Weizmann, in an address delivered at the Zionist Congress in Zurich, revealed that he had been consulted on the partition plan at a private meeting of the Royal Commission held in Jerusalem. The article adds that Dr. Weizmann had then gone to London, and on his return to Palestine one of the members of the Royal Commission had told him that the members of the Commission realised that the recommendations they would make in their report were not in accordance with the rightful demands of the Jews or the obligations of the United Kingdom towards them, but that the partition plan afforded great possibilities of expansion for the Jewish people. The petitioner complains of the partiality and prejudice shown by the Royal Commission in respect of the Arab point of view, especially because such views were expressed before Arab witnesses had explained Arab grievances and complaints. The petition concludes by saying that the Arabs would be “ justified in taking strong exception to this action ” of the Royal Commission and felt “ strongly aggrieved that their interests, national existence and rights in their country should have been sacrificed at all times by such actions ever since the issue of the Balfour Declaration up to this very moment ”.

The mandatory Power in its observations points out that the address referred to would appear to have been made by Dr. Weizmann, not at the Zionist Congress itself, but on the eve of that Congress, to the Confederation of General Zionists. The Royal Commissioners, it is observed, were clearly entitled to make any enquiry they might consider pertinent to their task, in private sessions and conversations of individual members. Whether Dr. Weizmann made the statement attributed to him or not the Government can neither confirm nor deny. It declares to be fully satisfied as to the complete impartiality of the Royal Commission.

As the utterances complained of are based on a newspaper report of what has been said in secret sessions or in private conversations and meetings, they cannot, in my opinion, be adduced in evidence of the partiality or impartiality of the Palestine Royal Commission.

If my colleagues agree, I propose the adoption of the following conclusion :

“ The Commission,  
“ Having examined the petition, dated August 12th, 1937, from M. Mohammad Amin Husseini, former President of the Supreme Arab Committee, Jerusalem, and the observations of the mandatory Power thereon :  
“ Considers that this petition does not call for any recommendation to the Council.”

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ANNEX 11.

PALESTINE.

PETITION, DATED JANUARY 1938, FROM THE "NESSIUT" (PRESIDENCY) OF THE NEW ZIONIST ORGANISATION, LONDON, TRANSMITTED ON JANUARY 18TH, 1938, BY MR. A. ABRAHAMS, POLITICAL SECRETARY.

REPORT BY M. PALACIOS.

The petition was forwarded to the Mandates Commission with a letter from the Political Secretary of the New Zionist Organisation, London, dated January 18th, 1938. The Chairman of the Commission considered it admissible in so far as it contained statements relating to the execution of the mandate. The mandatory Power submitted its observations on June 3rd, 1938. Moreover, the accredited representative of the mandatory Power gave the Commission at its present session<sup>1</sup> certain additional information on the subject dealt with in the petition.

The New Zionist Organisation claims that the "old" organisation, which had an almost complete monopoly of the Jewish Agency because it is explicitly mentioned in Article 4 of the mandate, is no longer qualified to represent the entire "Jewish people", which is recognised in the Preamble of the mandate as a unit endowed with certain rights in Palestine. It considers that the mandate, according to its actual wording, requires the mandatory Power to review the position in this respect from time to time, and that it confers on the various sections of the Jewish people the right to make requests in this connection. The petitioners take the view that, although the matter could be settled among the Jews themselves—and for this purpose they propose a round table conference, a suggestion on which they have the agreement of Agudath Israel—the final settlement must proceed from the mandatory Power and the League of Nations. In their opinion the announcement of the partition of Palestine does not form an obstacle to the settlement of the question, since the present mandate is still in force and might remain so for a considerable time. The petitioners assert, in substance, that the Jewish Agency for Palestine, as constituted and recognised by the mandatory Power in accordance with Article 4 of the mandate, is not sufficiently representative, and needs to be "democratised". In particular, they object to the present constitution of the Zionist Organisation, which gives the right to elect delegates to Zionist Congresses only to those Jews who have proclaimed their allegiance to the Zionist Movement by obtaining a "shekel" (membership card). According to the petitioners, such a membership card, which also serves as a voting-paper for the Jewish Congress, can be obtained by any adult Jew on payment of a small annual subscription (about one shilling). This method of buying a voting-paper, for however modest a sum, is in their view a grave infringement of the principles of democracy. It may be acceptable for a party, but not for an assembly. According to the petitioners' figures, the nineteenth Zionist Congress held in 1935 represented only 1,216,030 shekel holders, and the 1937 Congress far fewer; whereas, the petitioners add, there are millions of Jews who have a vital interest in the establishment of the National Home in Palestine—among these the members of the New Zionist Organisation, constituted by the Vienna Congress in 1935 by 713,000 voters. The petitioners consider that the requirement of such an annual subscription from voters is preventing large proportions of the Jewish people from taking part in the election of delegates to the Zionist Congresses, and so from influencing the future of the movement. It also has the effect of transforming the Jewish Agency into "a body of privileged élite of 'haves' as distinct from the overwhelming multitude of 'have nots'". As for the "non-Zionists", who share equally with the Zionist Organisation in the composition of the Jewish Agency, the petitioners deny them any representative character whatever, asserting that they are nominated by small groups of Jewish "notables" and are not in any sense democratically elected. Referring to Article 4 of the mandate (whereby "the Zionist Organisation, so long as its organisation and constitution are, in the opinion of the Mandatory, appropriate, shall be recognised . . ."), the petitioners complain that the mandatory Power has so far ignored all representations embodying the above criticisms of the constitution of the Jewish Agency. The latter's influence on immigration policy is also criticised. For these reasons, the petitioners, appealing to the spirit of Geneva, conclude by asking the Mandates Commission to make representations to the mandatory Power as to the need for a reorganisation of the Jewish Agency. It is proposed that the functions of the Agency should be vested in a World Jewish National Assembly elected on the basis of an equal and universal franchise for all adult Jews, whether affiliated to the Zionist Organisation or not, and without fee. To legalise this reform, it is asked that there should be a modification in the wording of Article 4 of the mandate or in the constitution and title of the Zionist Organisation mentioned therein.

<sup>1</sup> See Minutes of the present session of the Commission, pages 42-44.

The observations of the mandatory Power may be summarised as follows : Since its organisation and constitution were regarded as appropriate for the purposes indicated in the mandate, the Zionist Organisation was recognised as the Jewish Agency referred to in Article 4 of the mandate. In accordance with the terms of that article, the Zionist Organisation initiated negotiations directed towards "securing the co-operation of all Jews who were willing to assist in the establishment of the Jewish National Home". In January 1929, it informed the mandatory Power of the results of those negotiations, in consequence of which a new organisation was created, comprising both the Zionist Organisation and the non-Zionist Jewish communities. In a letter dated September 16th, 1929, the Zionist Organisation furnished the Colonial Office with full details of the constitution of this new body, and asked to be recognised for the purposes indicated in Article 4 of the mandate. This recognition was accorded in a letter from the Colonial Office to the Zionist Organisation dated August 6th, 1930. Copies of this correspondence were forwarded to the Secretary-General of the League from the Foreign Office on August 27th, 1930. It is clear from this correspondence that in 1930 the United Kingdom Government was satisfied to the steps which had been taken by the Zionist Organisation to secure the co-operation of such Jews as were willing to assist in the establishment of the Jewish National Home. No change has since taken place in the organisation and constitution of the Jewish Agency which would justify the revocation of the recognition accorded in 1930. Moreover, the petition submitted to the Commission comes from a body which promotes a policy contrary to the mandate (namely, the conversion of the whole of Palestine and Trans-Jordan into a Jewish State), and which has deliberately seceded from the Zionist Organisation. With reference to the complaint as to the distribution of immigration certificates by the Jewish Agency, these certificates are not the equivalent of visas, and the mandatory Power refers to the longstanding practice in this matter. It feels justified in leaving it to the Jewish Agency to decide the method of selection and the provenance of labour immigrants, so long as they fulfil the elementary conditions prescribed by regulations. In conclusion, the mandatory Power has no intention of conceding a similar privilege and responsibility to any other Jewish organisation.

In view of these categorical statements by the mandatory Power, whose authority in the matter is strictly based on Article 4 of the mandate ; since there can be no question of the Commission's advising the amendment of that article ; and realising that the question raised could be dealt with by friendly discussion and settlement between the Jewish organisations and populations concerned, I propose the adoption of the following conclusion :

" The Commission,

" Having examined the petition, dated January 1938, submitted, on January 18th, 1938, on behalf of the New Zionist Organisation, London, by Mr. A. Abrahams, Political Secretary, and the observations of the mandatory Power thereon :

" Considers that the petition calls for no special action."

C.P.M.2056(1).

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## ANNEX 12.

### PALESTINE.

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LETTER, DATED MAY 4TH, 1938, FROM THE PRESIDENT OF THE JEWISH AGENCY FOR PALESTINE, ACCOMPANYING A MEMORANDUM ON THE DEVELOPMENT OF THE JEWISH NATIONAL HOME IN PALESTINE IN 1937.

REPORT BY COUNT DE PENHA GARCIA.

The Jewish Agency's memorandum of May 4th, 1938, addressed to the High Commissioner for Palestine, contains, as usual, an account of the situation during the year 1937, together with statistics and other data. In his covering letter, Dr. Weizmann, President of the Jewish Agency, emphasises the prevailing uncertainty in Palestine and the renewal of terrorist activities. He points out, however, that, in spite of these adverse factors, the structure of the Jewish economic organisation has stood the strain. In agriculture, there has been an increase in the number of Jewish settlements and agricultural production has increased in a marked degree. In the industrial field, the expansion of the Palestine Electric Corporation, the improvements in the port of Tel Aviv, and the co-operation of Jews in commercial aviation are worthy of note. In regard both to agriculture and industry, however, the Jewish Agency appeals to the mandatory Power for certain credit facilities. It also asks for the conclusion of agreements with the neighbouring countries to protect Jewish production. The most important part of the memorandum is devoted to immigration questions. This is the Jewish Agency's chief subject of concern, and it complains of the considerable reduction in the number of Jews authorised to immigrate to Palestine by the mandatory Power ; this restriction, which the Agency considers to be contrary to the mandate, causes great hardship to those Jews

who are to-day being driven out of various countries, and whose only hope is settlement in Palestine. The Jewish Agency complains, not only of the restrictions on the immigration of Jewish workers, but also of those on the immigration of Jewish capitalists, who, by the introduction of new capital into Palestine, would be of very great assistance in overcoming the financial crisis. Lastly it complains of the small number of immigration permits granted to the relatives of Jews already settled in Palestine, from whom they are still separated.

In its observations, the mandatory Power agrees that the restrictions on immigration are of an arbitrary character, but maintains that such measures were temporarily necessary while the scheme for the partition of Palestine recommended by the Royal Commission was under consideration. It does not consider its decision in this matter to have been contrary to the mandate, and is of opinion that it will facilitate the solution of the problem of partition. As regards the requests for credit facilities, the mandatory Power cannot see its way to granting them, for agricultural purposes, but in so far as industry is concerned, it has the matter under consideration. It is also assisting municipalities in obtaining loans, and proposes to enter into negotiations with the Governments of Lebanon and Syria with a view to affording increased protection to local production. It is also clear from the memorandum that Jewish cultural and social institutions continue to make progress, and that the problem of Jewish education is well on the way to settlement.

In my opinion, the present disturbances, and the uncertainty as to the future of Palestine, obviously make the Jewish Agency's task a difficult one. It is nevertheless doing everything in its power to carry on and develop the work entrusted to it by the mandate, and to co-operate with the mandatory Power in maintaining the Jewish national home. Such being the case, I venture to propose to the Commission the adoption of the following conclusion :

“ The Commission,

“ Having examined the Jewish Agency's memorandum concerning the development of the Jewish National Home in 1937, accompanied by a letter, dated May 4th, 1938, from the President of the Jewish Agency, together with the mandatory Power's observations :

“ Is of opinion that this documentation does not call for any special action.”

C.P.M.2083(1).

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ANNEX 13.

PALESTINE.

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REPORT OF THE SUB-COMMITTEE ON PETITIONS CONCERNING THE PLAN FOR THE PARTITION OF PALESTINE, THE GENERAL POLICY OF THE MANDATORY POWER AND THE SUPPRESSION OF THE DISTURBANCES IN 1937 AND SUBSEQUENTLY.

1. Petition, dated July 27th, 1937, from M. Justin Godart, Chairman of the Committee for the Defence of the Rights of Jews in Central and Eastern Europe, Paris (documents C.P.M.1925 and 1946).
2. Petition, dated July 29th, 1937, from M. Shukry Eff-Taji, Chairman of the Arab Committee of the Citrus Fruits Industry, Jaffa (documents C.P.M.1940 and 1999).
3. Petitions, dated July 13th, 1937 :
  - (a) From the Arab Women's Committee, Jerusalem ;
  - (b) From the Jerusalem National Committee (document C.P.M.1941).
4. Petition, dated July 18th, 1937, from Mgr. Gregorius Hajjar, Metropolitan of Acre, Haifa and Nazareth, Haifa (document C.P.M.1943).
5. Telegram, dated September 13th, 1937, from the Arab Higher Committee, Jerusalem (document C.P.M.1944).
6. Petition, dated October 2nd, 1937, from M. Dahter, Secretary-General of the "Comité syro-palestinien", Cairo (documents C.P.M.1949 and 2004).
7. Petition, dated July 14th, 1937, from the Arab Chamber of Commerce, Jerusalem (document C.P.M.1966).
8. Petitions, dated :
  - (a) July 10th, 1937, from the President of the Arab Committee, Jaffa ;
  - (b) June 14th, 1937, from Ahmad Effendi Shuqair, Acre ;
  - (c) July 21st, 1937, from M. Mohammad Al-Hadi Al-Yasharti, Acre (document C.P.M.1967).
9. Petition, dated July 21st, 1937, from M. Attia Jweid, Hulah Area (Northern Palestine) (document C.P.M.1976).
10. Petition (undated) from M. Kamel Husein Yousef and other signatories, Hulah Area (Northern Palestine) (document C.P.M.2001).
11. Petition (undated) from M. Naf'i Deeb, Missilya, and other inhabitants of villages in the Jenin Sub-district (document C.P.M.2002).



12. Petition, dated November 2nd, 1937, from Ragheb Bey Nashashibi, President of the National Defence Party, Jerusalem (document C.P.M.2005).
13. Petition, dated August 21st, 1937, from M. Anton Yacoub Al-'Ama, Bethlehem (document C.P.M.2007).
14. Petition, dated November 15th, 1937, from Ragheb Bey Nashashibi, President of the National Defence Party, Jerusalem (document C.P.M.2008).
15. Petitions, dated October 26th, and November 11th and 16th, 1937, from Hamad Hilmy Pasha and other members of the former Arab Higher Committee, now in the Seychelles (documents C.P.M.2011, 2011(a) and 2019).
16. Petitions dated :
  - (a) February 17th, 1938, from the Arab Women's Committee, Jerusalem ;
  - (b) February 5th, 1938, from a delegation of Arab Ladies of Jerusalem (document C.P.M.2020).
17. Petition, dated August 15th, 1937, from M. Jacob H. Salavan, Bnei-Brak (document C.P.M.2024).

As was the case last year, the Commission finds on its agenda a large number of petitions relating to the report of the Royal Commission, the Statement of Policy of the United Kingdom Government and the future of Palestine in general. There are also several which relate to the measures taken by the mandatory Power to put down the disturbances in the country.

In many cases some doubt may be felt as to the admissibility of these petitions, because complaints, protests, suggestions and opinions are expressed on points or problems which do not lie within the ordinary scope of the Commission's work ; in other words, they relate not to the execution of the present mandate but to the future status of Palestine, the abolition of the mandate or various questions lying outside the mandate.

During its thirty-second session,<sup>1</sup> the Commission considered this same preliminary question of competence. The Sub-Committee is of opinion that, because no definite decision has since been taken as to the fate of the Royal Commission's proposals or the future of Palestine in general, the situation has undergone no change. The Royal Commission's report is still being examined by the mandatory Power, and is still on the agenda of the Mandates Commission. Hence the Mandates Commission necessarily considers itself competent to deal, not only with the petitions concerning the execution of the present mandate, but also with those relating to the Royal Commission's report and any question connected therewith.

In accordance with the precedent set at the thirty-second session of the Commission,<sup>2</sup> the Sub-Committee classified the petitions referred to it into various groups, in order to give a general view which will facilitate their examination. The Commission could deal with them in the following order :

A. Petitions against the Royal Commission's report or, more particularly, against the scheme of partition, but not containing any new factor or any positive suggestion in regard to the problem.

B. Petitions criticising the Royal Commission's report or the scheme of partition, and also suggesting a solution considered by the petitioners to be more in accordance with the circumstances or with justice.

C. Petitions concerning the measures taken by the mandatory Power to put down the disturbances in Palestine.

\* \* \*

A. PETITIONS AGAINST THE ROYAL COMMISSION'S REPORT OR, MORE PARTICULARLY, AGAINST THE SCHEME OF PARTITION, BUT NOT CONTAINING ANY NEW FACTOR OR ANY POSITIVE SUGGESTION IN REGARD TO THE PROBLEM.

(Nos. 3, 4, 5, 7, 8, 10, 11, 12.)

These petitions sometimes merely voice indignation and sometimes contain more or less considered protests against the scheme of partition, against the idea of a forced transfer of population and against alleged violations of previous promises or of the Covenant. The mandatory Power deliberately refrains from comments or observations—an attitude that is very natural, since the scheme of partition is still only in its embryonic stage (*cf.* the letter from the mandatory Power, dated November 15th, 1937 (document C.P.M.1999), which relates to a petition coming under group B).

The Sub-Committee considers that, in view of the situation as regards the general body of problems relating to the future status of Palestine, the Commission should, following the example of the mandatory Power, confine itself to taking note of these petitions. The latter serve as a useful source of information in judging of the state of public opinion in Palestine.

In this connection, it is interesting to note that the petitions come from all sorts of groups and elements of the non-Jewish population of Palestine—the Arab Women's Committee, Jerusalem, the Christians of Northern Palestine, the inhabitants of the town and sub-district of Acre, the Shadiliyyeh sect, the inhabitants of the Hulah area, the National Defence Party, Jerusalem, etc.

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 142-143, 148, 205, 211-218, 234.

<sup>2</sup> *Ibid.*, page 213.

Secondly, the Sub-Committee desires to draw attention to the fact that several petitioners are opposed to the scheme of partition for reasons based purely on the Islamic religion.

\* \* \*

In conclusion, the Sub-Committee considers that, although some of these petitions contain interesting points, none of them call for special action on the part of the Council of the League.

B. PETITIONS CRITICISING THE ROYAL COMMISSION'S REPORT OR THE SCHEME OF PARTITION, AND ALSO SUGGESTING A SOLUTION CONSIDERED BY THE PETITIONERS TO BE MORE IN ACCORDANCE WITH THE CIRCUMSTANCES OR WITH JUSTICE.

(Nos. 1, 2, 9, 13, 14, 17.)

*Petition No. 1.*

In this petition from M. Justin Godart, submitted on behalf of the "Comité pour la Défense des Droits des Israélites en Europe Centrale et Orientale", certain measures are advocated as being calculated to provide a solution for the Palestine problem (numerical parity as between Jews and Arabs, round table conference, etc.).

The Commission will remember that the exchanges of views which took place with the accredited representatives of the mandatory Power last year also covered this petition.<sup>1</sup> In its final observations, dated October 11th, 1937 (document C.P.M.1946), the mandatory Power repeats that the settlement of the Palestine problem can no longer be sought on the basis of a unitary State and that there is little prospect of arriving at a solution by means of a round table conference, as the petitioner recommends. Moreover, during the present session of the Commission, it was unfortunately confirmed that there was no ground for optimism on that subject.<sup>2</sup>

*Petition No. 2.*

In this petition, the President of the Arab Committee of the Citrus Fruits Industry, Jaffa, studies the land problem in Palestine in the light of the Royal Commission's report and the scheme of partition. After giving a very interesting account of this complex problem, the petitioner concludes that the scheme of partition would take away almost all the cultivable land from the Arabs and hand it over to the Jewish State.

The mandatory Power, while pointing out in its observations that the United Kingdom Government does not regard itself as in any way committed to the scheme of partition proposed by the Royal Commission, concludes that it will be the duty of the new technical partition commission to take into account the representations of any interests likely to be affected by the partition scheme.

*Petition No. 9.*

The petitioner, M. Attia Jweid, speaking on his own behalf and on that of the inhabitants of the Arab area of Hulah, protests against the Royal Commission's report and requests that one or other of the following alternatives should be accepted: either the scheme of partition should be rejected or the Hulah area, the greater part of which was still held by the people of Lebanon, should be re-attached to the latter.

The mandatory Power makes no observations.

*Petition No. 13.*

The petition from M. Anton Yacoub Al-'Ama outlines, sometimes with rather curious details, a plan for the reunion of Jews and Arabs by a process of reciprocal obliteration of the past—a plan which appears to the Sub-Committee to be entirely illusory—and by the constitution of what he terms an "Esperantist State".

Again the mandatory Power makes no comments.

*Petition No. 14.*

The Arab National Defence Party reviews the political evolution of Palestine under the mandatory regime, and concludes by asking for the settlement of the Palestine problem on the same basis as that on which the problem of Iraq and Syria was solved.

The mandatory Power adopts the same attitude.

*Petition No. 17.*

The petitioner, M. Salavan, unlike the previous one, gives from the Jewish point of view an account of the past history of the Palestine question and concludes by asking for a definite decision that full effect be given to the mandate.

The mandatory Power takes the same attitude.

\* \* \*

The conclusion which the Sub-Committee feels bound to adopt with regard to this group of petitions is the same as that proposed for group A.

<sup>1</sup> See Minutes of the Thirty-second (Extraordinary) Session of the Commission, pages 150-151, 173-174.

<sup>2</sup> See Minutes of the present session of the Commission, pages 33-34.

C. PETITIONS CONCERNING MEASURES TAKEN BY THE MANDATORY POWER TO PUT DOWN THE DISTURBANCES IN PALESTINE.

(Nos. 6, 15, 16.)

*Petition No. 6.*

The Secretary-General of the "Comité syro-palestinien", Cairo, submits a protest against the repressive measures taken by the mandatory Power on September 30th, 1937, and the following days.

The mandatory Power refers to the explanations contained in the annual report on Palestine for 1937.

*Petition No. 15.*

This petition emanates from Ahmad Hilmy Pasha and certain other members of the former Arab Higher Committee. It contains three documents, the first two of which are identical in subject-matter, and two letters from the mandatory Power containing its observations.

I. In the first and second of these petitions, dated October 26th and November 11th, 1937, the signatories—of whom all except one are members of the Arab Higher Committee, which has been dissolved since September 1937—submit complaints in connection with their deportation to the Seychelles Islands. Their protests are classified under four headings :

(a) The petitioners allege that their arrest preparatory to deportation was effected with unjustifiable harshness : they were arrested by the police and were immediately conveyed to a ship without being allowed to settle their affairs. They also complain of the climate of the island on which they are exiled and maintain that it is affecting their health.

(b) The petitioners protest against the charge that they were responsible for the violation of public order and that they organised the Palestine disturbances. To prove that their Arab Higher Committee was an authorised association, they adduce, *inter alia*, the official relations of Sir Arthur Wauchope, High Commissioner for Palestine, with the Committee, which, they state, was the only body representing the Palestine Arabs.

(c) They point to the serious financial consequences which may arise from the deportation of three of their number, who played a prominent part in Arab banking in Palestine.

(d) Lastly, they protest against the Jewish influence which, in their view, was strongly exercised in official circles in London.

In the last paragraph, the petitioners embody their conclusions, some of which summarise the allegations made in the petitions, while others take up again the well-known arguments of the Arab case as regards the future status of Palestine.

II. The third petition, dated November 16th, 1937, develops in greater detail some of the preceding complaints. More particularly it should be noted that the petitioners deal with the Palestine Government's charge that they were morally responsible for disturbances. They question whether a Government may properly override judicial proceedings and intern members of a representative committee—who, moreover, have strongly and publicly condemned acts of terrorism—without, as they allege, any proof of their guilt. On the contrary it is on the Government itself, they claim, that responsibility lies for the regrettable acts of terrorism and murder, since it is pursuing an unjust policy. On the other hand, the petitioners state that a Jewish terror exists, in the form of two organisations which are specifically named and which, they say, are acting in conjunction with, if not under the orders and instructions, of Jewish institutions. Moreover, the petitioners refer to illicit traffic in arms and ammunition by Jews and illicit Jewish immigration. They maintain that both these acts are breaches of peace and order, and that, moreover, the Government is aware of the activities of the Jewish organisations and nevertheless tolerates them. The petitioners add that peace cannot be restored by drastic measures, more especially since the Arab opposition constitutes a real national movement. Lastly, the petitioners complain of the regime applicable to them in Seychelles as regards their movements and their contact with the outer world. They attribute this regime to a spirit of vindictiveness on the part of the Palestine Government. In this connection, they complain more particularly of the censorship of their correspondence and the delays caused on this account from time to time.

III. The observations of the mandatory Power on these petitions were given both by letter and verbally by its accredited representatives during the present session<sup>1</sup> of the Commission. They may be summarised as follows in respect of each of the points raised by the petitioners :

<sup>1</sup> See Minutes of the present session of the Commission, pages 50, 51.

An arrest with a view to deportation had to be effected swiftly in order to be effective. Men whom the Government considered to be morally responsible for numerous crimes could hardly expect to be treated with special consideration. In order to remedy the inconveniences of rapid arrest, the Government subsequently made arrangements in conjunction with the families of deported persons to have adequate supplies of clothing and necessaries sent to them.

As regards the responsibility for disturbances, the mandatory Power declares that the former Arab Higher Committee was morally responsible for the campaign of murder and violence culminating at the time in the assassination of Mr. Andrews, a district commissioner in Palestine, and his escort. In addition, the accredited representative of the mandatory Power informed the Commission that the Government had reached the conclusion—a conclusion admittedly not based on legal evidence—that the deported members of the former Arab Higher Committee were morally responsible.<sup>1</sup>

With reference to the unfavourable effect which the climate of the Seychelles Islands is alleged to have had on the health of the petitioners, the mandatory Power states that it appears from a report by the Senior Medical Officer that there had been no deterioration in their health (see the observations of the mandatory Power on the petition No. 16 (document C.P.M.2020)).

Very full explanations of the financial consequences of deportation are given to justify the view that the business of the banks in question has resumed its normal course.

The accredited representative made a statement to the Commission on the alleged Jewish influence and concluded that it had been the constant endeavour of the mandatory Power to hold the balance equally between the Jews and the Arabs.<sup>2</sup>

The accredited representative gave certain information on Jewish terrorism and violations of the rules governing the arms traffic and immigration which have been committed or tolerated by Jewish bodies. It appears therefrom that acts of terrorism had been committed by Jews by way of reprisal, but that it was doubtful whether there existed Jewish organisations to promote terrorism. The Jews as well as the Arabs were in possession of illegal arms. Secret organisations for self-defence existed among the Jews. As regards the allegations of illicit importation of arms by the Jews, the accredited representative stated that the Administration had been extremely active in putting down the illicit arms traffic.<sup>3</sup>

Lastly, the mandatory Power deals with the disciplinary measures applied to deportees during their exile. It explains that none but unavoidable measures of supervision and confinement were ordered and that these measures have been applied so as to cause the minimum of inconvenience to the parties concerned, and that the censorship arrangements are working smoothly.

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Having thus summarised the petitioners' complaints in the light of the mandatory Power's observations, and taking into consideration the grave events that occurred in Palestine in 1937 as they were described by the accredited representatives of the Mandatory Power during the examination of the annual report for 1937, the Sub-Committee is of opinion that these petitions call for no special observation to the Council. It considers that the mandatory Power, whose first duty is to maintain order, has not, in the fulfilment of that duty, exceeded the limits of fully justified action appropriate to the circumstances.

*Petition No. 16.*

The second part of this petition from the Arab Women's Committee, Jerusalem, alone merits attention. Complaints are made of a number of measures to put down the Palestine disturbances: the effects of the climate of the Seychelles Islands on the health of the deportees, the ill-treatment of Arabs interned in the camp of Acre and the sanitary conditions therein, the excesses committed by the police, disrespectful treatment of women, etc.

The mandatory Power's observations with regard to the deportees in Seychelles have already been dealt with above. As regard the conditions in the detention camp at Acre, it is stated that improvements in sanitation have been made and that the health service maintains regular inspection. The charges brought regarding the conduct of the police are categorically denied. The mandatory Power regrets any instances of individual hardship or economic loss which may result from arrests under the Defence Regulations; it adds that the responsibility must lie with those whose subversive or terrorist activities render such detention essential in the public interest.

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<sup>1</sup> See Minutes of the present session of the Commission, page 45.

<sup>2</sup> *Ibid.*, page 39.

<sup>3</sup> *Ibid.*, page 50.

It appears from the information supplied by the accredited representatives that the measures taken to put down disturbances, though unavoidable, were being carried out with all the precautions that had been found possible in the circumstances.<sup>1</sup> The Sub-Committee therefore thinks that the Commission should confine itself to taking note of the written and verbal statements.

\* \* \*

If the Commission approves the proposals set forth above in regard to each group of petitions, it might signify its approval by adopting the following conclusion :

“ The Commission,

“ Having considered, in the light of the documentary material supplied by the mandatory Power, the petitions classified as follows :

“ A. Petitions against the Royal Commission’s report or, more particularly, against the scheme of partition, but not containing any new factor or positive suggestion in regard to the problem ;

“ B. Petitions criticising the Royal Commission’s report or the scheme of partition, and also suggesting a solution considered by the petitioners to be more in accordance with the circumstances or with justice ;

“ C. Petitions concerning the measures taken by the mandatory Power to put down the disturbances in Palestine ;

“ In view of the fact that the petitions in groups A and B are concerned with the scheme of partition outlined by the Palestine Royal Commission, which is at present being examined by the mandatory Power :

“ Is of opinion that attention should be drawn to the importance of the accounts contained in some of these documents, but that no special observations need be made on them ;

“ And considers that, as regards the petitions in group C, no special recommendation to the Council is required.”

C.P.M.2048(I).

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#### ANNEX 14.

### SYRIA AND LEBANON.

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#### PETITIONS (EIGHT IN NUMBER) CONCERNING THE SANJAK OF ALEXANDRETTA.<sup>2</sup>

REPORT BY MLE. DANNEVIG.

I. These petitions, which are all telegrams sent to the High Commissioner from Turkish inhabitants of different towns of Syria, protest against alleged illegal practices and undue pressure on electors during the elections in the Sanjak of Alexandretta in November 1936. Some petitioners also protest against the elections themselves, which are said to be held contrary to the desires of the population and to have accordingly been boycotted by the Turkish inhabitants of certain towns and villages. In the petitioners’ opinion, therefore, the candidates nominated in the elections of the second degree do not represent the will of the population. In addition to this, the first two petitions protest against the alleged unjust expulsion of four young Turks from Antioch and two young Turks from Kirik-Khan, who, it is stated, have never disobeyed the laws.

II. The French Government in its observations explains that the young men who were expelled had agitated for the boycott of the elections and so disturbed public order. The French Government further observes that the investigations made by the High Commissioner have proved the non-existence of the alleged illegal practices. The authorities did their best to prevent boycotting and to ensure the liberty of the electors of the Sanjak, who were threatened on their way to the polling-stations and at the polling-stations themselves. The assertion that Turkish electors, especially in Kirik-Khan, abstained from voting is disproved, it is stated, by the fact that more than 51% of the Kirik-Khan electors voted—a greater percentage than in certain Arab districts in Syria. In view of these explanations, and as fresh elections are now being carried out in the Sanjak, I propose that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined eight petitions from inhabitants of the Sanjak of Alexandretta relating to the elections in November 1936, and the mandatory Power’s observations thereon :

“ Considers that these petitions do not call for any particular action.”

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<sup>1</sup> See Minutes of the present session of the Commission, page 29.

<sup>2</sup> See Minutes of the Thirty-third Session of the Commission, page 138.

ANNEX 15.

SYRIA AND LEBANON.

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PETITION, DATED NOVEMBER 5<sup>TH</sup>, 1937, FROM M. ABDEL KADER AND M. FOUAD GHANDOUR, BEIRUT.

REPORT BY COUNT DE PENHA GARCIA.

The French Government sent to the Secretary-General of the League of Nations, for transmission to the Permanent Mandates Commission, a petition, accompanied by annexes, from M. Abdel Kader and M. Fouad Ghandour, Beirut. The petitioners allege that they have suffered loss owing to the expropriation of their property, which was necessitated by the construction of the Beirut aerodrome. They complain, in particular, of the price of 10 francs per square metre paid them as compensation for expropriation, and add that this price at Beirut does not correspond to the real value of the land.

The mandatory Power points out that, according to the information furnished by the High Commissioner of the Republic in Syria and Lebanon, the procedure followed in regard to the persons concerned was perfectly correct, and the value of the land was duly fixed by experts. In the documents submitted by the petitioners, it is stated that the petitioners themselves had the value of their land entered in the register as 6.40 francs per square metre. The petitioners explain that this purchase value was given with a view to avoiding payment of the exorbitant duties levied in respect of sale or succession, and that in any case the increased value of the land, the fall in the franc, the interest on capital for eight years, and the total amount of the taxes paid on the land should be taken into consideration. The case was brought before the Court of Cassation, which dismissed the plaintiffs' claim. That being so, I propose that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined the petition, dated November 5<sup>th</sup>, 1937, from M. Abdel Kader and M. Fouad Ghandour, Beirut, and the observations of the mandatory Power :

“ Is of opinion that no special action need be taken on this petition.”

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C.P.M.2080(1).

ANNEX 16.

SYRIA AND LEBANON.

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PETITION, DATED DECEMBER 27<sup>TH</sup>, 1937, FROM M. MICHEL SAYUR, ROME, AND OTHER HEIRS OF THE LATE ANTOUN YOUSSEF SAYUR, SUBMITTED THROUGH THE AGENCY OF MAITRE EMILE ZALZAL, ADVOCATE, BEIRUT.

REPORT BY LORD HAILEY.

This petition, dated December 27<sup>th</sup>, 1937, was addressed on January 24<sup>th</sup>, 1938, to the Permanent Mandates Commission by Maître Emile Zalzal, on behalf of the heirs of the late A. Y. Sayur. On January 29<sup>th</sup>, 1938, it was held by the President of the Commission to be admissible, and on June 2<sup>nd</sup>, 1938, the mandatory Power forwarded to the Commission its observations on the subject.

The petition relates to the claim of the heirs of the late A. Y. Sayur to a large parcel of land in the vicinity of Beirut. The land is said to have been of very little value until it came, at a comparatively recent date, within the scope of land speculation which followed the expansion of Beirut. The petition asserts that the late A. Y. Sayur acquired rights over the land now claimed by his heirs in a series of transactions which began in 1876. There was much litigation on the subject, and in 1933 his heirs obtained from the Court of Appeal in Beirut a decree which established their rights over a portion (amounting to 8,300 square *pics*) of the area over which the transactions had extended.

It is the action which has been taken, or alternatively has still to be taken, in regard to this decree which has given rise to the present petition. The area claimed by the heirs of A. Y. Sayur appears to extend over lands claimed by the Druses, and includes the Druse cemetery ; over another part of the area a school and public garden, and a number of roads have been constructed. There are therefore some considerable difficulties of a public nature,

in executing the Decree of 1933 ; and there also appear to be some technical obstacles, in so far that the Land Department, on which falls the duty of giving effect to it, is unable to reconcile the measurements given in the decree with those existing in the land survey.

The Administration has entered into certain negotiations with a view to solving the difficulties arising in regard to the Druse cemetery. These have, however, proved unsuccessful. It has now been indicated to the decree holders that they should seek from the Court of Appeal an interpretation (which would in effect be a revision) of the terms of the decree which have given rise to the difficulties encountered by the Land Department.

It is not within the functions of the Permanent Mandates Commission to attempt to estimate the legal value of the claims put forward by the heirs of A. Y. Sayur, nor the merits of the judgment at which the Appeal Court arrived in 1933. From such material as is available—namely, the Mandatory Power's observations and the explanations given by the accredited representative<sup>1</sup>—it would appear to be the case that the course indicated to the decree holders is in fact open to them, and to that extent the matter must be considered as potentially if not actually under judicial process.

I therefore recommend that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined the petition, dated December 27th, 1937, addressed on January 24th, 1938, by Maître Emile Zalzal, on behalf of the heirs of the late A. Y. Sayur, and the mandatory Power's observations thereon :

“ Considers that no action need be taken on the part of the Commission with regard to this petition, in view of the fact that all legal remedies have not been exhausted.”

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C.P.M.2081(I).

ANNEX 17.

SYRIA AND LEBANON.

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PETITION, DATED SEPTEMBER 25TH, 1937, FROM M. KASSEM MOUSTAPHA, M. KHALED HAMAD EL-KHATIB AND OTHER SIGNATORIES OF THE EL-ARKOUB DISTRICT.

REPORT BY M. PALACIOS.

The petition, addressed to the High Commissioner, is dated September 25th, 1937, and was transmitted to the League of Nations by a letter from the French Government dated May 24th, 1938. The petition is signed by two members of the “ Jeunesse arnéliote ” who were arrested in the course of a brawl, during the Lebanese election campaign, between Ali Bizzi, leader of the Youth Party, and one of his opponents. There follow twelve other signatures. The petitioners merely protest that “ the Government allows certain supporters of the feudal chiefs to insult the free and noble youth of Jebel Arnel (South Lebanon) ”.

The mandatory Power, in its observations, explains that the incident had no other consequences, as the country has been calm since the elections.

I therefore propose that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined the petition, dated September 25th, 1937, from M. Kassem Moustapha, M. Khaled Hamad El-Khatib and other signatories of the El-Arkoub district, in the light of the observations of the mandatory Power thereon :

“ Considers that no special action need be taken on this petition.”

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<sup>1</sup> See Minutes of the present session of the Commission, pages 99-100.

ANNEX 18.

SYRIA AND LEBANON.

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PETITION, DATED OCTOBER 24TH, 1937, FROM M. SAMI SLIM, TRIPOLI.

REPORT BY M. SAKENOBE.

M. Sami Slim, who appears to have failed to gain acceptance as a candidate at the new general elections to the Lebanese parliament, declares in his petition that the elections were falsified, as many witnesses could prove. He also states that the homicide taken as a pretext for prohibiting mass gatherings was the outcome of a dispute between one of the Government party and the victim regarding a certain sum of money advanced by the former to buy votes in favour of the Government candidates.

The mandatory Government, in its observations dated May 24th, 1938, simply states that the fact that the petitioner could not procure acceptance on any list of candidates showed what a low standing the petitioner had in political circles in Lebanon and that, in consequence of this fact and of the character of his previous petitions, he does not seem to be well qualified to denounce the attitude of the Lebanese authorities during the election.

Referring to the alleged cause of homicide, the accredited representative of the French Government, in reply to a question by the Rapporteur during the present session of the Commission, <sup>1</sup> stated that, during the election, no case of homicide was reported.

At all events, it appears from the statement of the accredited representative of the French Government that the election took place in an atmosphere of comparative calm and order.

In the circumstances, I propose that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined the petition, dated October 24th, 1937, from M. Sami Slim, Tripoli, together with the mandatory Power's observations thereon :

“ Considers that no action need be taken on this petition.”

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C.P.M.2058(1).

ANNEX 19.

SYRIA AND LEBANON.

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PETITIONS (FIVE IN NUMBER) DATED SEPTEMBER 25TH, DECEMBER 10TH, 14TH AND 15TH, 1937, AND JANUARY 9TH, 1938, FROM INHABITANTS OF DAMASCUS AND HOMS.

REPORT BY COUNT DE PENHA GARCIA.

A number of inhabitants of Damascus and Homs sent through the mandatory Power five petitions addressed to the Permanent Mandates Commission. The French Government transmitted them with its observations on May 27th, 1938. These petitions, which are quite short, are of a political character. The mandatory Power, in its observations, explains that they express the views of the opposition that has sprung up since the Nationalist Party came into power in Syria. The measures adopted by that party to protect itself from the opposition have created new grounds of discontent, and have provided its opponents with fresh arguments. In the opinion of the mandatory Power, the occurrences which gave rise to each of these petitions are not serious. Even the charges made in the fourth petition, in which it is asserted that the three signatories of this petition were deprived of food and of all communication with the outside world, are disputed by the mandatory Power.

In view of the very vague nature of these petitions, and their lack of precision in regard to any occurrences which would have justified the complaints, I propose to the Commission the following conclusion :

“ The Commission,

“ Having examined the five petitions, dated September 25th, December 10th, 14th and 15th, 1937, and January 9th, 1938, from Inhabitants of Damascus and Homs, and the mandatory Power's observations thereon :

“ Is of opinion that these petitions do not call for any special action.”

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<sup>1</sup> See Minutes of the present session of the Commission, pages 100-101.



ANNEX 20.

SYRIA AND LEBANON.

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PETITION, DATED MARCH 1938, FROM M. KHALED DAGHESTANI, HOMS, AND OTHER CIRCASSIANS OF THE MOHAFAZATS OF HOMS AND HAMA.

REPORT BY M. SAKENOBE.

M. Khaled Daghestani and other signatories, representing the Circassians of the Mohafazats of Homs and Hama, have submitted a petition through the High Commissioner in Syria and Lebanon to the President of the Council of the League of Nations.

It is stated in the petition that there are some 30,000 Circassian refugees, who have been resident in Syria since 1870, when they were driven out of their ancestral home in the Caucasus by the Russians. In spite of their forced exodus and the lapse of time, they have retained their old traditions, language and customs, and through all the different regimes have remained loyal to the laws of the country. They further state that repeated requests have been made to the mandatory Government to recognise their social and political rights and also their minority status; and when the Franco-Syrian Treaty negotiations were opened they again appealed with a request to have their rights incorporated in the Treaty. After describing how, on several occasions since 1920, the Circassian people have been cruelly treated by the majority, the petitioners make a renewed appeal to the League of Nations and reiterate their desire to have their social and political rights guaranteed in the Treaty before its ratification by the mandatory Power.

In a letter dated May 31st, 1938, with which the mandatory Government transmitted the petition with its observations, it is explained that the Circassians, being Sunnite Moslems, are not a religious minority, but one of the rare linguistic minorities in Syria, and that their efforts to maintain their old traditions and language have not been received with favour by the majority, although they could not to any extent affect the unity of the Syrian nation.

The French Government further states that certain rights claimed by the petitioners are already recognised by the Constitution to every citizen in Syria, but the recognition of certain new rights, such as the Circassian representation in the Parliament or the use of their own language in the Government primary schools in the villages inhabited by Circassians, might encounter serious opposition from the majority in the Syrian Parliament.

I think it is not necessary to analyse here the petitioners' specific demands—eleven in number—enumerated in the petition, because what they want is, after all, the effective protection of their rights and interests.

The question of the protection of various minorities in Syria has been a constant subject of discussion in the Commission, particularly at the thirty-third session in connection with the examination of the Franco-Syrian Treaty. The Commission has clearly stated its attitude on the question in its observations on Syria and Lebanon submitted to the Council at its thirty-third session<sup>1</sup> and this is amplified at the present session<sup>2</sup> in its observations to the Council on Syria and Lebanon.

If reference is made to the above-mentioned observations of the Commission, it seems to me that no special recommendation to the Council is needed in regard to this petition.

I therefore propose the following conclusion to be adopted by the Commission :

“ The Commission,

“ Having examined the petition, dated March 1938, from M. Khaled Daghestani, Homs, and other Circassians of the Mohafazats of Homs and Hama, together with the mandatory Power's observations thereon ;

“ Referring to the Commission's observations on minorities, which are contained in the general observations on Syria and Lebanon submitted to the Council at the conclusion of its thirty-third and thirty-fourth sessions respectively<sup>1, 2</sup> :

“ Considers that no special recommendation need be made to the Council in regard to this petition.”

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<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 175.

<sup>2</sup> See Minutes of the present session of the Commission, page 229.

ANNEX 21.

SYRIA AND LEBANON.

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PETITIONS RELATING TO THE LEGISLATIVE ELECTIONS WHICH TOOK PLACE  
IN THE MOHAFAZAT OF LATAKIA IN OCTOBER 1937.

REPORT BY M. PALACIOS.

The petitions, nineteen in number (sixteen, according to the French Government's numbering), consist of a series of telegrams sent to the High Commissioner during October and November 1937, protesting against the incidents that took place during the legislative elections in the Mohafazat of Latakia. The letter from the mandatory Power, dated May 30th, 1938, gives the following information : The elections in question had been decided upon by the Government of Damascus somewhat abruptly, after having been postponed for several months. The object was to provide for the representation of the Mohafazat in the Syrian Chamber, in order to give effect to the attachment of that province to Syria. The Sunnites, who are predominant in the towns of the littoral and who are in general opposed to the autonomous Government of Latakia, which has given a position of importance to the chiefs of the Alawite tribes, seem to have tried to take advantage of the occasion to remove these persons from power by defeating, partly with the help of the Administration, Ibrahim Agha el Kenje, who was considered to be the leader of the opposition, together with the candidates to whom he had given his patronage. In the course of the struggle, there were significant defections on the part of certain Alawite chiefs. In these circumstances, this opposition will hardly be in a position to find expression in the Syrian Chamber, although it can make itself felt in the Representative Council of Latakia and in the country.

The telegrams of protest of which the petitions consist mostly denounce the pressure brought to bear by the Government and the brute force exercised, the intervention of the "Iron Shirts" and the National Guard, and the terrible reprisals that have been taken. The petitioners affirm their love for France and protest against her withdrawal and her abandonment of them, against Syrian unity and against the attitude taken on this subject by the League of Nations. On the other hand, some of the telegrams—very few—approve the elections and support the National Government.

The petitioners' statements, which include denunciations of police attacks and operations—these are duly explained by the mandatory Power—may be regarded as providing useful information on the state of affairs in the country, which is known to be very complicated, during this period of transition. I do not consider, however, that the petitions are of sufficient importance to warrant special mention to the Council.

I therefore propose the adoption of the following conclusion :

" The Commission,

" Having examined the petitions relating to the legislative elections which took place in the Mohafazat of Latakia in October 1937 and the mandatory Power's observations thereon ;

" While considering that the particulars which they contain should be taken into account in judging the political situation in Syria :

" Is of opinion that no special action should be taken in regard to these petitions."

C.P.M.2077(1).

ANNEX 22.

SYRIA AND LEBANON.

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PETITIONS, DATED DECEMBER 2ND AND 15TH, 1937, FROM  
M. RACHID YOUSSEF BEIDOUN, FROM M. IBRAHIM FAYAD AND OTHER  
SIGNATORIES, BEIRUT.

REPORT BY M. PALACIOS.

The petition consists of two telegrams from Beirut, dated respectively December 2nd and 15th, 1937, the first signed by the Lebanon deputy Rachid Youssef Beidoun, and the second by the merchants and notables of the Shiite community of Beirut. These state that in this way they are supporting their deputies, who have withdrawn from the Lebanon Parliament in protest against the usurpation of their rights, inasmuch as they have not been granted a number of public offices proportionate to their numerical strength. The covering letter from the mandatory Power, dated June 2nd, 1938, contains the French Government's observations on the facts set forth in the petition.

It appears that, in fact, the Shiites do not occupy in the Lebanon a number of public offices proportionate to the numerical strength of their group as compared with the total population of the country. In support of their claims, which are based on the exchange of letters No. 6 attached as an annex to the Franco-Lebanese Treaty of November 13th, 1936, the deputies of the community have temporarily withdrawn from the Legislative Chamber. The mandatory Power satisfactorily explains that, while recognising the right invoked by the petitioners, it is not possible, on account of existing conditions, to give full effect to that right, as this community is still in a somewhat backward condition and provides only a few persons possessing suitable qualifications for the functions in question. The situation of which the petitioners complain is being remedied through the opening of numerous schools by the public authorities, and also by the fact that the Lebanese Government is giving young Shiite graduates posts in the Administration as and when vacancies arise.

Consequently, I do not think that the petition merits the particular attention of the Commission. I therefore propose the adoption of the following conclusion :

“ The Commission,

“ Having examined the petitions, dated December 2nd and 15th, 1937, from M. Rachid Youssef Beidoun, M. Ibrahim Fayad and other signatories, Beirut, and the mandatory Power's observations thereon :

“ Considers that no special action should be taken in respect of these petitions.”

C.P.M.2054(1).

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ANNEX 23.

SYRIA AND LEBANON.

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PETITION, DATED NOVEMBER 10TH, 1937, FROM FATHER JIRJI DOUNA, HOMS.

REPORT BY Mlle. DANNEVIG.

The petition is in the form of a telegram complaining that the petitioner was unlawfully imprisoned by the Mohafez (of Homs) for two nights because he had entered “ the House of his Community ”. As a result of this treatment, he has been ill until the actual date of the petition.

The French Government, in its observations, explains the petition of Father Jirji Douna of Homs, which would otherwise be rather incomprehensible, by referring to internal dissensions which have prevailed for some years in the Greek Orthodox community of Syria, and which also led to a petition last year.

It is stated that a group of persons who belonged to the Greek Orthodox community, but who had refused obedience to the Patriarch, attacked the Greek Archbishop's palace at Homs, intending to occupy it by force. They were led by Father Jirji Douna.

The assailants in this attack wounded the “ Kawasse ” and insulted the patriarchal vicar ; the Patriarch's partisans then sent for the police, who questioned the aggressors, and among them Father Jirji Douna. The dossier was afterwards handed over to the courts of justice. It is further stated that the Mohafez of Homs asserts that no orders were given to arrest Father Jirji Douna, and that the petitioner was not imprisoned. The petition therefore appears to be without foundation.

As a result of these explanations, I am led to believe that there is no reason to consider Father Jirji Douna's experience to be incompatible with freedom of conscience or as a personal injustice inflicted on him, and beg to propose that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined the petition, dated November 10th, 1937, from Father Jirji Douna, Homs, and the mandatory Power's observations thereon :

“ Considers that this petition does not call for any action.”

C.P.M.2078(1).

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ANNEX 24.

SYRIA AND LEBANON.

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PETITION, DATED NOVEMBER 12TH, 1937, FROM M. ELIAS EL-YOUSSEF AND M. ATTIE ET-TAHER, DAMASCUS.

REPORT BY M. VAN ASBECK.

In their petition the signatories, on behalf of the Christians of the Hauran, blame the Syrian authorities for the help they are alleged to have given to Moslems who have been guilty of aggressive acts against Christian women and girls, and they ask for their rights to be safeguarded and for help to be given them to secure the return of these women.

In its observations on the petition, the mandatory Government, summarising the facts, points out : (1) that the women concerned were not abducted at all, but are stated simply to have followed the Moslems in question of their own free will ; (2) that the Syrian police and administrative authorities did not fail to do their duty when complaint was made to them (two cases) ; (3) that the third case reported has not yet been brought before the judicial authorities.

It would seem that the incidents, regrettable from the point of view of the respect which young girls owe to their parents, were given all necessary attention by the Syrian authorities and that, consequently, the complaints are not such as to claim the attention of the organs of the League.

If my colleagues share this view, the Commission might adopt the following conclusion :

“ The Commission,

“ Having considered the petition, dated November 12th, 1937, from M. Elias El-Youssef and M. Attie Et-Taher, Damascus, and the mandatory Power's observations thereon :

“ Is of opinion that the petition does not call for any special action.”

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C.P.M.2064(1).

#### ANNEX 25.

#### SYRIA AND LEBANON.

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PETITION, DATED NOVEMBER 25TH, 1937, FROM M. MOHAMMED ADI BKHALED  
AND OTHER SIGNATORIES, TRIPOLI.

REPORT BY M. SAKENOBE.

This petition, signed by some two hundred inhabitants of Tripoli, protests against the distribution of subsidies to various private schools without the approval of Parliament. It demands that this distribution should be cancelled and that the money should be used for the improvement of existing schools or for the opening of new ones wherever necessary.

The mandatory Government, in its observations dated June 2nd, 1938, recalls the petitions received from Moslems in Tripoli complaining that there were too few Government schools in their town, <sup>1</sup> and states that the present petition seems to have been prompted by the same spirit as that of the former petitions, but to have especially in view the subsidies given to the schools of Christian communities.

The mandatory Government then draws attention to statistics on education in the annual reports on Syria and Lebanon and observes that a great majority of pupils in Government schools are Moslems, while a still greater number of young Christians are educated in mission schools or in the schools of their communities, and that the Government's contributions to these private schools are far less burdensome to the budget than are the Government schools.

It adds that the subsidies were distributed, not only to the Christian schools, but also to the Moslem schools. A copy of Decree No. 1460/E.C., authorising the subsidies together with a list of recipients and the sum allotted to each, is annexed to the mandatory Government's letter.

In the circumstances, I propose that the Commission should adopt the following conclusion :

“ The Commission,

“ Having examined the petition, dated November 25th, 1937, from M. Mohammed Adib Khaled and other signatories, Tripoli, in the light of the observations of the mandatory Government :

“ Considers that no special action need be taken on this petition.”

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<sup>1</sup> See Minutes of the Thirtieth Session of the Commission, pages 192, 205-206 and 214.

ANNEX 26.

SYRIA AND LEBANON.

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PETITIONS (FIFTEEN IN NUMBER) FROM INHABITANTS OF UPPER JEZIREH.

REPORT BY M. SAKENOBE.

During its thirty-third session, the Mandates Commission discussed the incidents which occurred in July and August 1937 in Upper Jezireh, and examined a series of petitions from the inhabitants of this region. <sup>1</sup>

The present petitions are to be considered as a continuation of the first series; they are dated from September 1937 to April 1938, and are mostly in the form of telegrams, but many of them are dated November 1937, when the Mandates Commission was in session.

As in the case of the first series, most of the petitions demand the introduction of a special regime in Upper Jezireh under the protection of the mandatory Government, while a few of them draw attention to the distress of those inhabitants at Amoud who suffered the loss of their homes and properties at the hands of the nationalists and ask for the League's intervention to procure compensation.

The mandatory Government, in transmitting the petitions in a letter dated June 2nd, 1938, had nothing special to add to what had been stated in the letter accompanying the first series of petitions and the supplementary explanations given by its accredited representative during the thirty-third session of the Mandates Commission. <sup>2</sup>

\* \* \*

At its thirty-third session, the Commission, after having examined the incidents in Upper Jezireh, submitted the following observation to the Council: <sup>3</sup>

“ The Commission has learnt with regret of the serious incidents which occurred recently in Upper Jezireh, necessitating the direct intervention of the mandatory Power. It notes that, in consequence of these incidents, the Central Government of Syria has made changes in the administrative personnel in that region.

“ The Commission would be glad to be informed of the steps taken to ensure fair treatment for the interests of the various sections of the heterogeneous population of that district.”

The Commission adopted the following conclusion regarding the aforesaid petitions on these incidents: <sup>4</sup>

“ The Commission,

“ Having examined the petitions from inhabitants of Upper Jezireh in the light of the observations of the mandatory Government, the annual report on Syria and Lebanon for 1936 and the verbal explanations of its accredited representative :

“ Hopes that equality of treatment as between the inhabitants of Upper Jezireh, irrespective of race, religion and language, will be fully respected and that a spirit of mutual confidence and tolerance will thereby be created.”

\* \* \*

In these circumstances, I think that no special recommendation is needed in this case in connection with the question of a special regime in Upper Jezireh.

I therefore propose that the Commission adopts the following conclusion :

“ The Commission,

“ Having examined the petitions (fifteen in number) from inhabitants of Upper Jezireh, together with the mandatory Power's observations thereon ;

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<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, pages 31-33, 150, 161 and 179.

<sup>2</sup> *Ibid.*, pages 31-33.

<sup>3</sup> *Ibid.*, page 175.

<sup>4</sup> *Ibid.*, page 179.

“ Referring to the special observation (No. 4 : Upper Jezireh) submitted by the Commission in its report to the Council on the work of its thirty-third session<sup>1</sup> and also to the conclusion adopted at the same session on the petitions (twelve in number) from inhabitants of Upper Jezireh :<sup>2</sup>

“ Considers that no special recommendation need be made on its part to the Council in regard to these petitions.”

C.P.M.2075(1).

ANNEX 27.

SYRIA AND LEBANON.

PETITIONS, DATED AUGUST 14TH AND OCTOBER 27TH, 1937,  
FROM DR. A. CHALFOUN, BEIRUT.

REPORT BY M. PALACIOS.

These petitions, two in number, are dated August 14th and October 27th, 1937, respectively, and the mandatory Power's covering letter is dated June 7th, 1938.

Dr. Chalfoun, on behalf of a Committee which claims to represent 60,000 Lebanese, transmits a request and a manifesto asking that the Franco-Lebanese Treaty of 1936 should not be ratified, and explains for what reasons his very numerous co-signatories desire the French mandate to be maintained for a long time to come. The request outlines a whole programme of reforms, based on the principles of the strictest economy, the strengthening of the mandatory authority, and the purging of administration and justice. The manifesto justifies its emphatic demand for the restoration of the mandate by the necessity of recovering from the financial and moral crisis and of putting an end to an absurd and violent state of political instability. In the opinion of the petitioners, the country, which is already on the brink of the abyss, has not yet sufficient maturity to govern itself. They ask that they may continue to be governed by France, under a “ direct ” mandate, endowed with “ the essential absolute power ”.

The mandatory Power, in its observations, confines itself to replying that “ Dr. Chalfoun, in speaking of the widespread public support of the desiderata he puts forward, appears to exaggerate to some extent, although a certain number of Lebanese seem to share his ideas. In any case, there is no reason to believe that he has obtained the thousands of signatures mentioned in the attached documents, and while there can be no doubt of his good intentions, the action he is taking in the country ought not to be encouraged.”

For these reasons, and while considering that the information supplied and the attitude adopted by the parties concerned provide valuable material for judging the state of political relations in Lebanon, I propose that my colleagues adopt the following conclusion :

“ The Commission,

“ Having examined the petitions, dated August 14th and October 27th, 1937, from Dr. Antoine Chalfoun, Beirut, and the mandatory Power's observations thereon :

“ Considers that no special recommendation need be made to the Council regarding these petitions.”

C.P.M.2085(2).

ANNEX 28.

TANGANYIKA TERRITORY.

PETITION, DATED SEPTEMBER 30TH, 1937, FROM MR. S. V. COOKE,  
MOMBASA (KENYA).

REPORT BY M. PALACIOS.

The petition, dated September 30th, 1937, was sent to the Mandates Commission from Mombasa (Kenya), where its author, Mr. Cooke, an ex-official of the Tanganyika Territory, is living. The petitioner enclosed with his petition a speech made in his favour by Mr. Pritt in the House of Commons on June 2nd, 1937, as well as an extract from a review and references to certain newspapers.

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 175.

<sup>2</sup> *Ibid.*, page 179.

The petition was considered admissible by the Chairman of the Mandates Commission, so far as it concerned the administration of the mandated territory.

The petition appears to deal with two questions : the petitioner's relations as a public servant with the Government in whose service he was employed, and the administration of the mandated territory.

It is to be noted that, although the petitioner draws attention to the fact that the subject matter of his petition relates to " the independence of the judiciary and the discipline of the police force " and declares that he has not been " guided by any desire for personal redress ", a considerable part of the petition deals with his own personal case.

As far as his personal case is concerned, the petitioner describes at length the measures taken against him as an official of the mandated territory, as a result of which he was removed from his post and subsequently retired on a pension of £520.

The mandatory Power, in its observations, deals at length with Mr. Cooke's personal case and expresses its considered view that the treatment which the petitioner has received has been strictly in accordance with the regulations of the service to which he belonged, and that the action taken in transferring Mr. Cooke from Tabora and in terminating his appointment, as soon as it became legally possible, was entirely justified in the public interest.

As regards the administration of the Territory, the petitioner's main allegations are that the independence of the Territory's judiciary is being undermined and that the police force of the Territory is in a state of grave indiscipline.

The mandatory Power examines point by point the allegations contained under these two headings, and concludes that there has been no interference with the independence of the judiciary and that the petitioner's charges regarding the indiscipline of the police force have been most thoroughly investigated and found to be without foundation.

\* \* \*

Having examined the petitioner's complaints, in the light of the mandatory Power's observations—which in my opinion are fully satisfactory—they do not seem to me to call for any special attention on the Commission's part.

I therefore propose the adoption of the following conclusion :

" The Commission,

" Having examined the petition, dated September 30th, 1937, from Mr. S. V. Cooke, Mombasa (Kenya), together with the detailed observations of the mandatory Power thereon :

" Is of opinion that this petition does not call for any special recommendation to the Council."

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**ANNEX 29.**

C.P.M.2044(1).

**TANGANYIKA TERRITORY.**

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PETITION, CONSISTING OF TWO RESOLUTIONS PASSED ON SEPTEMBER 25TH, 1937, AT A MEETING OF THE INDIANS AT DAR-ES-SALAAM (HELD UNDER THE AUSPICES OF THE INDIAN ASSOCIATION).

REPORT BY M. GIRAUD.

This petition, which consists of two resolutions passed by the Indians at a meeting held at Dar-es-Salaam on September 25th, 1937, under the auspices of the Indian Association, was occasioned by the measures contemplated by the Government of Tanganyika Territory with a view to regulating the cultivation and preparation of and the trade in native produce ; the petitioners objected to the proposed provisions, asserting that the restriction of the free marketing of this produce which they would entail was calculated seriously to affect the legitimate interests of all merchants, and they urged that no decision should be taken until the question had been considered in all its aspects.

In its observations the mandatory Power states that the petitioners' protest was directed against the Native Produce (Control and Marketing) Bill, which was published during 1937 for public information and criticism. The object of the Bill was to regulate the native coffee industry in the Kilimanjaro area in the interests of the native producers, but the Bill was so drafted that its provisions could, if the need arose, be extended to crops other than coffee, with the approval of the Legislative Council. The Indian Association, while admitting that there appeared to be need for some control over the native coffee industry, was opposed to the Bill on the ground that it would give the Government unduly wide powers to restrict trade. The Bill was subsequently amended in the light of the criticisms made by the Indian Association

and others, and the Ordinance finally passed on October 23rd, 1937 (Native Coffee (Control and Marketing) Ordinance, 1937), gives the Government power to regulate only the native coffee industry. The mandatory Power adds that, as a result of these amendments, the Indian opposition was wholly withdrawn and the Indian representatives in the Legislative Council stated that the new Bill satisfied their requirements.

As the petition no longer has any object, the following conclusion might, I think, be adopted :

“ The Commission,

“ Having examined the petition, dated September 25th, 1937, from the Indians of Dar-es-Salaam, and the observations of the mandatory Power thereon :

“ Notes that, according to the information furnished by the mandatory Power, this petition no longer has any justification, the petitioners' requirements having been satisfied on October 23rd, 1937.”

C.P.M.2059(1).

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ANNEX 30.

TOGOLAND UNDER BRITISH MANDATE.

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PETITION, DATED AUGUST 9TH, 1937, FROM M. JOHANN A. AGBOKA, PRESIDENT OF THE “ BUND DER DEUTSCH TOGOLÄNDER ”, ACCRA.

REPORT BY COUNT DE PENHA GARCIA.

On August 9th, 1937, M. Johann A. Agboka, President of the “ Bund der Deutsch Togoländer ”, Accra (Gold Coast), sent through the mandatory Power a petition to the League of Nations concerning the division of the mandated territory of Togoland, part of which is under French mandate and part under British mandate. According to the petitioner, the lands belonging to the Akposo tribe and those belonging to the Buem tribe were clearly demarcated at the time when the territory was governed by the Germans. As a result of the fixing of the frontier between the two mandatory Governments—the United Kingdom and France—the Buem tribe under British mandate occupied certain lands belonging to the Akposo. This gave rise to legal proceedings and also to conflicts, during which natives were killed. The petitioner requests that a stop should be put to the acts of violence committed by the Buem.

The mandatory Power, in its observations, recognises the existence of the “ Bund der Deutsch Togoländer ”, a body having its headquarters at Accra and whose members are almost entirely natives of Togoland under French mandate.

It states that the frontier between the two mandated territories in the disputed area passed through unexplored territory which, since the delimitation, has been brought under cultivation. A number of the natives who cultivate these lands assert that they bought them from the chief of Akposo, who brought an action for the purpose of having these sales recognised. The chief of Buem entered a counter-claim. After a series of judgments, an appeal has now been made to the Privy Council.

The mandatory Power refers to the incidents, accompanied by bloodshed, which occurred in 1936, and which were not punished by the court owing to lack of evidence.

There has been no disturbance since those regrettable incidents, but the mandatory Power appears to be apprehensive of what may happen when the Privy Council has given its decision. It is to be presumed, however, that precautions will be taken to prevent any repetition of these incidents. The mandatory Power also refers to another land dispute, not mentioned in the petition, which appears to show that the land questions raised by the demarcation of the frontier might with advantage be settled by agreement between the Administrations of the two territories.

In these circumstances, I propose the adoption of the following conclusion :

“ The Commission,

“ Having examined the petition, dated August 9th, 1937, from M. Johann A. Agboka, President of the “ Bund der Deutsch Togoländer ”, Accra, and the observations of the mandatory Power thereon :

“ Is of opinion that no special action is called for on this petition.”

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ANNEX 31.

I. REPORT TO THE COUNCIL ON THE WORK OF THE COMMISSION.

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The Permanent Mandates Commission met at Geneva from June 8th to 23rd, 1938, for its thirty-fourth session, and held twenty-four meetings, part of the first of which was public.

The annual reports were considered in the following order, with the co-operation of the representatives of the mandatory Powers :

*Nauru, 1937.*

Accredited Representative :  
Major O. C. W. FUHRMAN, O.B.E.

*Palestine and Trans-Jordan, 1937.*

Accredited Representatives :  
Sir John SHUCKBURGH, K.C.M.G., C.B., Deputy Under-Secretary of State for the Colonies ;  
Mr. Sydney MOODY, O.B.E., Deputy Chief Secretary, Government of Palestine ;  
Mr. A. S. KIRKBRIDE, O.B.E., M.C., District Commissioner, Galilee and Acre District, Palestine.

*South West Africa, 1937.*

Accredited Representatives :  
Mr. C. T. TE WATER, High Commissioner for the Union of South Africa in London ;  
Mr. H. T. ANDREWS, Accredited Representative of the Union of South Africa to the League of Nations.

*Togoland under French Mandate, 1937.*

Accredited Representative :  
M. Maurice BESSON, Director of the " Agence économique de l'Afrique-Occidentale française ", Paris ;  
assisted by  
M. THÉBAULT, " Conseiller à la Cour d'appel ", former " Procureur de la République " in Lomé.

*Tanganyika Territory, 1937.*

Accredited Representatives :  
Mr. H. C. D. C. MACKENZIE-KENNEDY, C.M.G., Chief Secretary to the Government of the Territory ;  
Mr. G. K. WHITLAMSMITH, Officer in the Secretariat, Tanganyika Territory.

*New Guinea, 1936/37.*

Accredited Representative :  
Major O. C. W. FUHRMAN, O.B.E.

The Commission also gave a hearing to M. Robert DE CAIX, Accredited Representative of the Government of the French Republic, concerning the mandatory Power's request that the examination of the annual report on the situation in Syria and Lebanon during 1937 should be postponed until the autumn session, and concerning the petitions relating to that territory.

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A. OBSERVATIONS ON 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 to the mandatory Power concerned. In order to appreciate the full significance of these observations, reference should be made, as usual, to the Minutes of the meetings of the Commission at which the questions concerning the different territories were discussed.<sup>1</sup>

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<sup>1</sup> The page numbers following the observations concerning the B and C mandated territories are those of the Minutes of the session.

## TERRITORIES UNDER "A" MANDATE.

### Palestine.

An examination of the report for 1937 makes it clear that the political situation has not emerged from the deadlock which, in the words of the representative of the mandatory Power, characterised it a year ago.

Throughout the year, public order was continually disturbed by attacks on persons and by acts of intimidation and sabotage, which were conducted, as the report says, by Arabs, and on a few occasions provoked Jewish reprisals. This campaign of terrorism, in the course of which many Arabs fell victims to their own countrymen, seems to have increased in violence month by month and spread farther over the country.

More recently, however, order appears to have been established in the city of Jerusalem, and the disturbances have tended to be limited mainly to the northern part of the country.

The main concern of the mandatory authority was the restoration of order, and this was, of course, their primary duty. They applied themselves to this task with a determination for which every credit is due, even though the measure of success attained was not commensurate with the efforts expended or the sacrifices made.

The accredited representative did not hesitate to describe the situation which has developed in Palestine as a "state of war". In so doing, he made clear both the gravity of the attack on authority and also the extent of the resources called into play for the purpose of overcoming it. He also convinced the Commission of the exceptional difficulties this task involved, owing to the physical configuration of the country, the lack of co-operation on the part of the Arab population—whether because they are in sympathy with the insurgents or because they are terrorised by the threat of reprisals—and also owing to the fact that the insurrection is being helped from outside.

Measures for the restoration of order were a heavy financial burden on the country, and the effort which these measures necessitated inevitably interfered with ordinary administrative activities.

The accredited representative admitted that the events that have taken place have produced a transitional situation quite other than the transitional period which the Royal Commission expected to elapse between the adoption of the decisions it recommended and their practical application.<sup>1</sup>

The Royal Commission considered that, during that period, the present mandate would continue to be the governing instrument of the administration of Palestine. In actual fact, however, the Mandates Commission cannot but recognise that the application of the mandate is partially suspended now, as events have prevented some of its essential objects from being pursued.<sup>1</sup>

Thus, the mandatory Power has felt obliged to prolong the period during which Jewish immigration has been limited to a greater extent than would have been justified by the application of the principle of the economic absorptive capacity of the territory, which was approved by the Council. Similarly, the situation has been regarded as less favourable than ever for securing the development of the self-governing institutions referred to in Article 2 of the mandate.

The Commission observes that the mandatory Power has already introduced certain reforms urged by the Royal Commission as immediately necessary, and notes that it intends to pursue the same policy as far as circumstances permit.

Lastly, the Commission was informed that partition is still the solution which the mandatory Power considers to be the best and the most hopeful; the mandatory Power has instructed the technical Commission, of the appointment of which it has notified the Council, to pursue the study of this matter.

\* \* \*

Needless to say, the situation revealed by the foregoing survey has caused the Mandates Commission the utmost concern, and it hopes that the period that elapses before a final decision is reached as to the future status of the territory will be made as short as possible. All the interests involved cannot but suffer still further from the continuance of the present state of uncertainty.

### Syria and Lebanon.

The Commission should, in the ordinary course, have examined the annual report on Syria and Lebanon this session. Having heard the accredited representative's explanation of the reasons which led the mandatory Power to propose that the report should not be discussed until the next session, the Commission is of opinion that the examination at the present time of the administration of Syria and Lebanon during 1937 could have taken place without disadvantage. In the Commission's opinion, therefore, it would have been better not to depart from the established rule, and it only agreed to an adjournment in deference to the express desire of the mandatory Power, an adjournment which was also necessitated by the fact that the report did not reach it until after the session had opened.

<sup>1</sup> See on page 240 the comments of the accredited representative on this point.

On this occasion, the Commission has again given expression to the consideration which it has constantly kept in mind, that, in the mandated States of which it is proposed to recognise the complete independence, effective protection should be afforded to racial, linguistic and religious minorities. In this connection, it refers to its report of 1931 on 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, to its observations to the Council on the work of its various sessions during which the problem of the future of such minorities was examined, and to the Minutes of its discussions on the same subject.

The Commission has the honour to observe here, so far as may be necessary, that the agreements between the mandatory Power and the Levant States under mandate cannot prejudice the question of the guarantees which the League of Nations might contemplate when it has to pronounce on the emancipation of Syria and Lebanon and their admission to the League. The Commission noted with satisfaction a further statement to this effect by the accredited representative.

## TERRITORIES UNDER "B" MANDATE.

### Tanganyika Territory.

#### 1. *General Administration.*

The Commission regarded it as being to the credit of the operation of the system of indirect rule practised in the territory that, as appears from the annual report, the native authorities took action on their own motion for the restoration of order on the occasion of the disturbances which occurred in the district of Moshi, and that this result was achieved without it being necessary for the administration to resort to force (pages 140-141, 147, 188, 190, 240).<sup>1</sup>

#### 2. *Economic Equality.*

The Commission notes that the mandatory Power is of the opinion that States which are not members of the League of Nations cannot claim economic equality for their goods imported into Tanganyika, either under the terms of the mandate or under Article 22 of the Covenant, though in some cases a claim may be justified under other instruments which are applicable to the mandated territory. The accredited representative explained that these instruments were, on the one hand, the Treaty of Saint Germain of 1919 and, on the other hand, the agreement of 1925 granting the nationals of the United States of America the same economic rights in Tanganyika as those possessed by nationals of League Members, as well as the various bilateral trade agreements in which most-favoured-nation treatment in Tanganyika Territory was accorded to the countries which are mentioned on page 6, paragraph 7, of the annual report (pages 137, 188, 190).

#### 3. *Public Finance.*

(a) The Commission noted that the financial situation of the Territory continued to be favourable during the year 1937. As regards the public debt, it would welcome in the next report full information as to the methods of refunding the loans, a question which it learnt from the accredited representative was being considered by the competent authorities (pages 142, 188, 190).<sup>1</sup>

(b) The Commission noted that the whole question of the imposition of an income tax was still under consideration by the mandatory Power. It expresses again the hope that the objections raised to the imposition of such a tax in the Territory will not prove insuperable (pages 142-143, 188, 190).

#### 4. *Labour.*

(a) *General.* — The Commission welcomes the statement of the accredited representative that the administration has reinstated the Labour Department and is promoting a policy for the improved organisation of the recruiting of workers. It hopes that, as a result, unsatisfactory health conditions such as those which attended the recruiting of labour for the Morogoro district in 1937 will not again prevail (pages 150-152, 188, 190).

(b) *Lupa Goldfields.* — The Commission notes that the measures taken for the improvement of conditions of labour on the Lupa goldfields have had a good effect, and hopes to receive, in the next annual report, information indicating that progress has been continued (pages 147-150, 188, 190).

#### 5. *Liquor Traffic.*

The Commission notes the successful results of the measures taken with a view to controlling the manufacture and sale of methylated spirits (pages 155, 188, 190).

<sup>1</sup> See on page 240 the comments of the accredited representative on this point.

## **Togoland under French Mandate.**

### **I. GENERAL OBSERVATION.**

The Commission notes with satisfaction that, owing to the material improvement in the financial situation of the territory, it has been possible to modify certain administrative measures taken for reasons of economy in the last few years, and thus to make the territory once more autonomous in regard to the majority of its administrative services (pages 108, 109-110, 188).

### **II. SPECIAL OBSERVATIONS.**

#### *1. Social Condition of the Natives.*

The Commission noted with interest the particulars supplied by the accredited representative regarding the social condition of the advanced elements of the native population. It hopes to receive at frequent intervals detailed particulars of the progress made in this respect (pages 110, 115, 117-119, 120-121, 188).

#### *2. Land Tenure.*

(a) The Commission noted the explanations given by the accredited representative regarding the supervision exercised by the Administration with a view to safeguarding the native land tenures, particularly in so far as they are affected by cases of mortgage.

Although no abuses seem to have occurred, the Commission is still concerned at the risks inherent in the present system from the point of view of the safeguarding of native property, which is formally stipulated in Article 5, paragraph 2, of the mandate.

The Commission noted the accredited representative's statement that he would consult with his Government as to whether any addition should be made to the legislation in force in the territory with a view to complying with the spirit and the letter of the above-mentioned clause of the mandate (pages 115, 126-131, 188).

(b) The Commission would be glad to find in the next report definite information on the question of "vacant lands", and more particularly on those aspects which concern native rights in respect of the occupation of such lands. It would also like to be informed of the instructions given to administrative officers regarding the conditions under which such lands can be assigned (pages 131-132, 188).

## **TERRITORIES UNDER "C" MANDATE.**

### **Nauru.**

#### *1. Education.*

The Commission hopes to find in the next report further information regarding the opportunity of education of higher type provided for Nauruans (pages 17, 23, 187).

#### *2. Public Health.*

The Commission is concerned at the high death rate of the native population in general, as well as at the high rate of infantile mortality.

It will therefore follow with the greatest interest the results of investigations made on the island, with regard to questions of health in general as well as to nutrition and fresh-water supply. The Commission earnestly hopes to find in the next report further information on these subjects (pages 20-21, 23, 26, 187).

### **New Guinea.**

#### *1. General Administration.*

The Commission would be glad to know the conclusion of the mandatory Power on the definite question whether, in their opinion, the welfare of the natives would be better secured by opening up the uncontrolled areas to European activities as soon as they are brought under control or by arranging for a transitional period which would enable the Administration to strengthen its authority and develop its activities (pages 163-166, 192).

#### *2. Public Works.*

While noting the explanations offered by the mandatory Power on the subject of road development, the Commission is nevertheless concerned to find that, in spite of the improved financial position of the territory, appropriations for road development have been reduced (pages 167, 192).

### 3. *Education.*

The Commission would be glad to find in the next report information on the work of the Committee appointed to examine questions relating to native education and, as far as possible, on the policy with regard to educational matters which will be formulated after the Legislative Council has been able to consider the Committee's report (pages 182-183, 192).

### 4. *Labour.*

The Commission notes the statements of the mandatory Power, in response to its observations on the work of its thirty-first session, that "the mandatory Power and the territorial Administration are at all times conscious of the obligation to safeguard and preserve the social well-being of the natives and particular care is taken to ensure that nothing is done by recruiting that would endanger the economic and social life of the native communities", and, further, that "this phase of native labour administration and control is constantly under the review of the Administration officials and is regulated by the power vested in the Administration to close areas to recruiting".

While appreciating the value of these statements, the Commission would be glad to be informed, in view of the increasing number and the high proportion of natives under indenture who are absent from their homes for periods of three years or even more, whether the mandatory Power does not consider it advisable to lower this proportion and shorten these periods (pages 176-179, 186-187, 192).

### 5. *Missions.*

The Commission was glad to receive from the mandatory Power information and reports from the missions, thus enabling it to follow the different aspects of their activities.

However, the Commission would welcome in the next report fuller information regarding the relations between the Administration and the missions, as well as between the missions themselves, as the situation appears somewhat complicated. This description, the Commission hopes, will also give some general information of the Administration's policy in regard to the missions and their activities (pages 181-182, 192).

### 6. *Land Tenure.*

The Commission would be glad to find in the next report a general survey of the conditions of land tenure by the native tribes, including a precise definition of the nature of the rights which they are considered to enjoy in the areas described as "native areas" (pages 185, 192).

## **South West Africa.**

### I. *General Administration.*

As regards the relations between the various sections of the European population of the territory, the Commission noted the statement in the annual report (page 152, paragraph 833), which reads as follows :

"The Union Government feels . . . that legislation, no matter in which form it may be devised, never can nor will rectify a state of affairs which has for its root cause the lack of mental affinity and purpose between the various elements of the European population in the territory. It has, however, every confidence that the mellowing influence of time and the necessity to co-operate in the promotion of common interests will gradually exercise their beneficial effects."

At the same time, the accredited representative of the mandatory Power informed the Commission that, in spite of the inherent difficulties of the political situation in the territory, the Administration reported that the atmosphere had improved and that the work of government had been easier in recent months. He recognised, however, that recent tendencies showed that there was still a marked divergence of feeling amongst the European community, but that this is due to external causes rather than to local factors (pages 73, 74-76, 187).

### 2. *Native Welfare.*

The Commission notes that, as shown in sections 305 and 305(a) of the report, the mandatory Power had decided not to continue its policy of spending sums out of general revenues on the improvement of the native reserves. The Commission is aware that the

Administration has stated that its present policy merely aims at avoiding the undue acceleration of the development of the reserves, as it considers it essential to convey to the natives the lesson that their improvement must depend on their own exertions. The Commission does not, however, feel that this consideration can justly apply to the grant of assistance to the natives in the matter of water supply or provision of medical facilities, since the natives are too indigent to provide these for themselves. The Commission continues therefore to hope that this consideration will not lead the Administration to withhold the assistance which is required in this respect and to which it called attention at its thirty-first session (pages 78-82, 187).

### 3. *Public Health.*

The Commission considers that it would be useful to initiate an enquiry into the problem of the nutrition conditions of the native population in the mandated territory (pages 94, 187).

### 4. *Missions.*

The Commission noted that, as already stated in the previous report, the Administration considers that the activities of the missions in some cases tended to undermine tribal law and custom, which it was the policy of the Administration to maintain.

It was, however, happy to learn that the results of a conference held with representatives of the missions seemed to afford promise of a better appreciation of the respective points of view of the officials and the missionaries (pages 92-93, 187).

### 5. *Education.*

The Commission hopes that, in the near future, it will be possible for the Administration to find a remedy for the dearth of properly trained and qualified teachers conversant with the various native languages (see paragraph 259 of the report, page 43). The Commission presumes that, if the system of grants to teachers used in Ovamboland proves to be successful, it will be extended to other parts of the territory (pages 90-91, 187).

### 6. *Land Tenure.*

The Commission would be glad to find in the next report information as to the rights which the natives are held to possess over land both inside and outside the reserves (pages 95, 187).

## B. PETITIONS. <sup>1</sup>

At its thirty-fourth session, the Commission considered the petitions mentioned below, together with the observations made on each of them by the mandatory power concerned. Each of these petitions was reported on in writing by a member of the Commission. After discussion, the Commission adopted the conclusions set forth below. The texts of the reports submitted to the Commission are attached to the Minutes. <sup>2</sup>

### **Palestine and Trans-Jordan.**

- (a) PETITION, DATED JULY 1936, FROM THE "NESSIUT" (PRESIDENCY) OF THE NEW ZIONIST ORGANISATION, LONDON, TRANSMITTED ON AUGUST 14TH, 1936, BY DR. H. LEVI, MEMBER OF THE "NESSIUT" (document C.P.M.1839) (page 190).

Observations of the United Kingdom Government, dated April 30th, 1937, and March 18th, 1938 (documents C.P.M.1892 and 2016).

Report (see Minutes, Annex 7, pages 204-205).

#### *Conclusions.*

"The Commission,

"Having considered the letter, dated August 14th, 1936, from Dr. H. Levi, and the petition, dated July 1936, from the Presidency of the New Zionist Organisation, London, in the light of the Balfour Declaration, the terms of the mandate, the decisions of the mandatory Power and the Council concerning the Palestine mandate, and the special observations of the mandatory Power:

"Does not feel that any further action need be taken on this petition."

<sup>1</sup> The page numbers following each title are those of the Minutes of the session.

<sup>2</sup> The Commission recommends that copies of the petitions and the mandatory Powers' observations thereon should be deposited in the League of Nations Library and thus placed at the disposal of persons wishing to consult them.

- (b) PETITION, DATED FEBRUARY 25TH, 1937, FROM THE NATIVE RACES AND THE LIQUOR TRAFFIC UNITED COMMITTEE, LONDON (document C.P.M.1890) (page 189).

Observations of the United Kingdom Government, dated October 12th, 1937 (document C.P.M.1947).

Report (see Minutes, Annex 8, pages 205-206).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated February 25th, 1937, from the Native Races and the Liquor Traffic United Committee, London, and the observations of the mandatory Power thereon :

“ Considers that no recommendation need be made to the Council in regard to the petition.”

- (c) PETITION, DATED JULY 28TH, 1937, FROM MR. ASA WHITNEY, SARISBURY GREEN, HANTS, ENGLAND (document C.P.M.1930) (pages 51, 190).

Observations of the United Kingdom Government, dated February 15th, 1938 (document C.P.M.2013).

Report (see Minutes, Annex 9, pages 206-207).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated July 28th, 1937, from Mr. Asa Whitney, Sarisbury Green, and the observations of the mandatory Power thereon :

“ Is of opinion that this petition does not call for any special action.”

- (d) LETTER, DATED AUGUST 12TH, 1937, FROM M. MOHAMMAD AMIN HUSSEINI, FORMER PRESIDENT OF THE SUPREME ARAB COMMITTEE, JERUSALEM (document C.P.M.1965) (page 189).

Observations of the United Kingdom Government, dated October 27th, 1937 (document C.P.M.1965).

Report (see Minutes, Annex 10, page 207).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated August 12th, 1937, from M. Mohammad Amin Husseini, former President of the Supreme Arab Committee, Jerusalem, and the observations of the mandatory Power thereon :

“ Considers that this petition does not call for any recommendation to the Council.”

- (e) PETITION, DATED JANUARY 1938, FROM THE “ NESSIUT ” (PRESIDENCY) NEW ZIONIST ORGANISATION, LONDON, TRANSMITTED ON JANUARY 18TH, 1938, BY MR. A. ABRAHAMS, POLITICAL SECRETARY (document C.P.M.2012) (pages 42-44, 190).

Observations of the United Kingdom Government, dated June 3rd, 1938 (document C.P.M.2047).

Report (see Minutes, Annex 11, pages 208-209).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated January 1938, submitted, on January 18th, 1938, on behalf of the New Zionist Organisation, London, by Mr. A. Abrahams, Political Secretary, and the observations of the mandatory Power thereon :

“ Considers that the petition calls for no special action.”

- (f) LETTER, DATED MAY 4TH, 1938, FROM THE PRESIDENT OF THE JEWISH AGENCY FOR PALESTINE, LONDON, ACCOMPANYING A MEMORANDUM ON THE DEVELOPMENT OF THE JEWISH NATIONAL HOME IN PALESTINE IN 1937 (document C.P.M.2028) (pages 39-40, 190).

Observations of the United Kingdom Government, dated May 27th, 1938 (document C.P.M.2028).

Report (see Minutes, Annex 12, pages 209-210).

*Conclusions.*

“ The Commission,

“ Having examined the Jewish Agency’s memorandum concerning the development of the Jewish National Home in 1937, accompanied by a letter, dated May 4th, 1938, from the President of the Jewish Agency, together with the mandatory Power’s observations :

“ Is of opinion that this documentation does not call for any special action.”

- (g) (1) PETITION, DATED JULY 27TH, 1937, FROM M. JUSTIN GODART, CHAIRMAN OF THE COMMITTEE FOR THE DEFENCE OF THE RIGHTS OF JEWS IN CENTRAL AND EASTERN EUROPE, PARIS (document C.P.M.1925).  
Observations of the United Kingdom Government, dated October 11th, 1937 (document C.P.M.1946).
- (2) PETITION, DATED JULY 29TH, 1937, FROM M. SHUKRY EFF-TAJI, CHAIRMAN OF THE ARAB COMMITTEE OF THE CITRUS FRUITS INDUSTRY, JAFFA (document C.P.M.1940).  
Observations of the United Kingdom Government, dated November 15th, 1937 (document C.P.M.1999).
- (3) PETITIONS, DATED JULY 13TH, 1937 :  
(a) From the Arab Women’s Committee, Jerusalem ;  
(b) From the Jerusalem National Committee (document C.P.M.1941).  
Observations of the United Kingdom Government, dated August 14th, 1937 (document C.P.M.1941).
- (4) PETITION, DATED JULY 18TH, 1937, FROM MGR. GREGORIUS HAJJAR, METROPOLITAN OF ACRE, HAIFA AND NAZARETH, HAIFA (document C.P.M.1943).  
Observations of the United Kingdom Government, dated October 5th, 1937 (document C.P.M.1943).
- (5) TELEGRAM, DATED SEPTEMBER 13TH, 1937, FROM THE ARAB HIGHER COMMITTEE, JERUSALEM (document C.P.M.1944).  
Observations of the United Kingdom Government, dated September 16th, 1937 (document C.P.M.1944).
- (6) PETITION, DATED OCTOBER 2ND, 1937, FROM M. DAHTER, SECRETARY-GENERAL OF THE “ COMITÉ SYRO-PALESTINIEN ”, CAIRO (document C.P.M.1949).  
Observations of the United Kingdom Government, dated December 9th, 1937 (document C.P.M.2004).
- (7) PETITION, DATED JULY 14TH, 1937, FROM THE ARAB CHAMBER OF COMMERCE, JERUSALEM (document C.P.M.1966).  
Observations of the United Kingdom Government, dated November 1st, 1937 (document C.P.M.1966).
- (8) PETITIONS, DATED :  
(a) JULY 10TH, 1937, FROM THE PRESIDENT OF THE ARAB NATIONAL COMMITTEE, JAFFA ;  
(b) JUNE 14TH, 1937, FROM AHMED EFFENDI SHUQAIR, ACRE ;  
(c) JULY 21ST, 1937, FROM M. MOHAMMED AL-HADI AL-YASHARTI, ACRE (document C.P.M.1967).  
Observations of the United Kingdom Government, dated October 27th, 1937 (document C.P.M.1967).
- (9) PETITION, DATED JULY 21ST, 1937, FROM M. ATTIA JWEID, HULAH AREA (NORTHERN PALESTINE) (document C.P.M.1976).  
Observations of the United Kingdom Government, dated November 3rd, 1937 (document C.P.M.1976).
- (10) PETITION (UNDATED), FROM M. KAMEL HUSEIN YOUSEF AND OTHER SIGNATORIES, HULAH AREA (NORTHERN PALESTINE) (document C.P.M.2001).  
Observations of the United Kingdom Government, dated November 17th, 1937 (document C.P.M.2001).



- (11) PETITION (UNDATED), FROM M. NAF'I DEEB, MISSILYA, AND OTHER INHABITANTS OF VILLAGES IN THE JENIN SUB-DISTRICT (document C.P.M.2002).  
Observations of the United Kingdom Government, dated November 18th, 1937 (document C.P.M.2002).
- (12) PETITION, DATED NOVEMBER 2ND, 1937, FROM RAGHEB BEY NASHASHIBI, PRESIDENT OF THE NATIONAL DEFENCE PARTY, JERUSALEM (document C.P.M.2005).  
Observations of the United Kingdom Government, dated January 5th, 1938 (document C.P.M.2005).
- (13) PETITION, DATED AUGUST 21ST, 1937, FROM M. ANTON YACOB AL-'AMA, BETHLEHEM (document C.P.M.2007).  
Observations of the United Kingdom Government, dated January 8th, 1938 (document C.P.M.2007).
- (14) PETITION, DATED NOVEMBER 15TH, 1937, FROM RAGHEB BEY NASHASHIBI, PRESIDENT OF THE NATIONAL DEFENCE PARTY, JERUSALEM (document C.P.M.2008).  
Observations of the United Kingdom Government, dated January 26th, 1938 (document C.P.M.2008).
- (15) PETITIONS, DATED OCTOBER 26TH, NOVEMBER 11TH AND 16TH, 1937, FROM HAMAD HILMY PASHA AND OTHER MEMBERS OF THE FORMER ARAB HIGHER COMMITTEE, NOW IN THE SEYCHELLES (document C.P.M.2011) (pages 50-51).  
Observations of the United Kingdom Government, dated January 27th, February 12th and April 20th, 1938 (documents C.P.M.2011, 2011(a) and 2019).
- (16) PETITIONS, DATED :  
(a) FEBRUARY 17TH, 1938, FROM THE ARAB WOMEN'S COMMITTEE, JERUSALEM ;  
(b) FEBRUARY 5TH, 1938, FROM A DELEGATION OF ARAB LADIES OF JERUSALEM (document C.P.M.2020).  
Observations of the United Kingdom Government, dated April 28th, 1938 (document C.P.M.2020).
- (17) PETITION, DATED AUGUST 15TH, 1937, FROM M. JACOB H. SALAVAN, BNEI-BRAK (document C.P.M.2024).  
Observations of the United Kingdom Government, dated May 18th, 1938 (document C.P.M.2024).  
Report (see Minutes, Annex 13, pages 210-215).

#### *Conclusions.*

“ The Commission,

“ Having considered, in the light of the documentary material supplied by the mandatory Power, the petitions classified as follows :

“ A. Petitions against the Royal Commission's report or, more particularly, against the scheme of partition, but not containing any new factors or positive suggestions in regard to the problem ;

“ B. Petitions criticising the Royal Commission's report on the scheme of partition, and also suggesting a solution considered by the petitioners to be more in accordance with the circumstances or with justice ;

“ C. Petitions concerning the measures taken by the mandatory Power to put down the disturbances in Palestine ;

“ Considers :

“ In view of the fact that the petitions in groups A and B are concerned with the scheme of partition outlined by the Palestine Royal Commission, which is at present being examined by the mandatory Power :

“ Is of opinion that attention should be drawn to the importance of the accounts contained in some of these documents, but that no special observations need be made on them ;

“ And considers that, as regards the petitions in group C, no special recommendation to the Council is required.”

**Syria and Lebanon.**

- (a) PETITIONS (EIGHT IN NUMBER) CONCERNING THE SANJAK OF ALEXANDRETTA (document C.P.M.1972<sup>1</sup>) (page 188).

Observations of the French Government, dated November 6th, 1937 (document C.P.M.1972).

Report (see Minutes, Annex 14, page 215).

*Conclusions.*

“ The Commission,

“ Having examined eight petitions from inhabitants of the Sanjak of Alexandretta, relating to the elections in November 1936 and the mandatory Power's observations thereon :

“ Considers that these petitions do not call for any particular action.”

- (b) PETITION, DATED NOVEMBER 5TH, 1937, FROM M. ABDEL KADER AND M. FOUAD GHANDOUR, BEIRUT (document C.P.M.2003) (pages 98-99, 191).

Observations of the French Government, of December 1937 (document C.P.M.2003).  
Report (see Minutes, Annex 15, page 216).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated November 5th, 1937, from M. Abdel Kader and M. Fouad Ghandour, Beirut, and the observations of the mandatory Power :

“ Is of opinion that no special action need be taken on this petition.”

- (c) PETITION, DATED DECEMBER 27TH, 1937, FROM M. MICHEL SAYUR, ROME, AND OTHER HEIRS OF THE LATE ANTOUN YOUSSEF SAYUR, SUBMITTED THROUGH THE AGENCY OF MAÎTRE EMILE ZALZAL, ADVOCATE, BEIRUT (document C.P.M.2010) (pages 99-100, 191).

Observations of the French Government, dated June 2nd, 1938 (document C.P.M.2033).

Report (see Minutes, Annex 16, pages 216-217)

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated December 27th, 1937, addressed on January 24th, 1938, by Maître Emile Zalzal, on behalf of the heirs of the late A. Y. Sayur, and the mandatory Power's observations thereon :

“ Considers that no action need be taken on the part of the Commission with regard to this petition, in view of the fact that all legal remedies have not been exhausted.”

- (d) PETITION, DATED SEPTEMBER 25TH, 1937, FROM M. KASSEM MOUSTAPHA, M. KHALED HAMAD EL-KHATIB AND OTHER SIGNATORIES OF THE EL-ARKOUB DISTRICT (document C.P.M.2025) (pages 100, 191).

Observations of the French Government, dated May 24th, 1938 (document C.P.M.2025).

Report (see Minutes, Annex 17, page 217).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated September 25th, 1937, from M. Kassem Moustapha, M. Khaled Hamad El-Khatib and other signatories of the El-Arkoub district, in the light of the observations of the mandatory Power thereon :

“ Considers that no special action need be taken on this petition.”

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 138.

- (e) PETITION, DATED OCTOBER 24TH, 1937, FROM M. SAMI SLIM, TRIPOLI (document C.P.M. 2026) (pages 100-101, 188).

Observations of the French Government, dated May 24th, 1938 (document C.P.M. 2026).

Report (see Minutes, Annex 18, page 218).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated October 24th, 1937, from M. Sami Slim, Tripoli, together with the mandatory Power's observations thereon :

“ Considers that no action need be taken on this petition.”

- (f) PETITIONS (FIVE IN NUMBER), DATED SEPTEMBER 25TH, DECEMBER 10TH, 14TH AND 15TH, 1937, AND JANUARY 9TH, 1938, FROM INHABITANTS OF DAMASCUS AND HOMS (document C.P.M.2027) (pages 101, 191).

Observations of the French Government, dated May 27th, 1938 (document C.P.M. 2027).

Report (see Minutes, Annex 19, page 218).

*Conclusions.*

“ The Commission,

“ Having examined the five petitions, dated September 25th, December 10th, 14th and 15th, 1937, and January 9th, 1938, from Inhabitants of Damascus and Homs, and the mandatory Power's observations thereon :

“ Is of opinion that these petitions do not call for any special action.”

- (g) PETITION, DATED MARCH 1938, FROM M. KHALED DAGHESTANI, HOMS, AND OTHER CIRCASSIANS OF THE MOHAFAZATS OF HOMS AND HAMA (document C.P.M.2030) (pages 101-102, 189).

Observations of the French Government, dated May 31st, 1938 (document C.P.M. 2030).

Report (see Minutes, Annex 20, page 219).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated March 1938, from M. Khaled Daghestani, Homs, and other Circassians of the Mohafazats of Homs and Hama, together with the mandatory Power's observations thereon ;

“ Referring to the Commission's observations on minorities, which are contained in the general observations on Syria and Lebanon submitted to the Council at the conclusion of its thirty-third and thirty-fourth sessions respectively :<sup>1</sup>

“ Considers that no special recommendation need be made to the Council in regard to this petition.”

- (h) PETITIONS RELATING TO THE LEGISLATIVE ELECTIONS WHICH TOOK PLACE IN THE MOHAFAZAT OF LATAKIA IN OCTOBER 1937 (document C.P.M.2031) (pages 102, 191).

Observations of the French Government, dated May 30th, 1938 (document C.P.M. 2031).

Report (see Minutes, Annex 21, page 220).

*Conclusions.*

“ The Commission,

“ Having examined the petitions relating to the legislative elections which took place in the Mohafazat of Latakia in October 1937 and the mandatory Power's observations thereon ;

“ While considering that the particulars which they contain should be taken into account in judging the political situation in Syria :

“ Is of opinion that no special action should be taken in regard to these petitions.”

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 175, and page 229 of the present document.

- (i) PETITIONS, DATED DECEMBER 2ND AND 15TH, 1937, FROM M. RACHID YOUSSEF BEIDOUN, FROM M. IBRAHIM FAYAD AND OTHER SIGNATORIES, BEIRUT (document C.P.M.2034) (pages 102-103, 191).

Observations of the French Government, dated June 2nd, 1938 (document C.P.M. 2034).  
Report (see Minutes, Annex 22, pages 220-221).

*Conclusions.*

“ The Commission,

“ Having examined the petitions, dated December 2nd and 15th, 1937, from M. Rachid Youssef Beidoun, M. Ibrahim Fayad and other signatories, Beirut, and the mandatory Power's observations thereon :

“ Considers that no special action should be taken in respect of these petitions.”

- (j) PETITION, DATED NOVEMBER 10TH, 1937, FROM FATHER JIRJI DOUNA, HOMS (document C.P.M.2035) (page 191).

Observations of the French Government, dated June 2nd, 1938 (document C.P.M. 2035).  
Report (see Minutes, Annex 23, page 221).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated November 10th, 1937, from Father Jirji Douna, Homs, and the mandatory Power's observations thereon :

“ Considers that this petition does not call for any action.”

- (k) PETITION, DATED NOVEMBER 12TH, 1937, FROM M. ELIAS EL-YOUSSEF AND M. ATTIE ET-TAHER, DAMASCUS (document C.P.M.2036) (page 191).

Observations of the French Government, dated June 2nd, 1938 (document C.P.M. 2036).  
Report (see Minutes, Annex 24, pages 221-222).

*Conclusions.*

“ The Commission,

“ Having considered the petition, dated November 12th, 1937, from M. Elias El-Youssef and M. Attie Et-Taher, Damascus, and the mandatory Power's observations thereon :

“ Is of opinion that the petition does not call for any special action.”

- (l) PETITION, DATED NOVEMBER 25TH, 1937, FROM M. MOHAMMED ADIB KHALED AND OTHER SIGNATORIES, TRIPOLI (document C.P.M.2037) (pages 103, 188).

Observations of the French Government, dated June 2nd, 1938 (document C.P.M. 2037).  
Report (see Minutes, Annex 25, page 222).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated November 25th, 1937, from M. Mohammed Adib Khaled and other signatories, Tripoli, in the light of the observations of the mandatory Government :

“ Considers that no special action need be taken on this petition.”

- (m) PETITIONS (FIFTEEN IN NUMBER) FROM INHABITANTS OF UPPER JEZIREH (document C.P.M.2038) (pages 103, 189).

Observations of the French Government, dated June 2nd, 1938 (document C.P.M. 2038).  
Report (see Minutes, Annex 26, pages 223-224).

*Conclusions.*

“ The Commission,

“ Having examined the petitions (fifteen in number) from inhabitants of Upper Jezireh, together with the mandatory Power's observations thereon ;  
“ Referring to the special observation (No. 4 : Upper Jezireh) submitted by the Commission in its report to the Council on the work of its thirty-third session <sup>1</sup> and also to the conclusion adopted at the same session on the petitions (twelve in number) from inhabitants of Upper Jezireh : <sup>2</sup>

“ Considers that no special recommendation need be made on its part to the Council in regard to these petitions.”

- (n) PETITIONS, DATED AUGUST 14TH AND OCTOBER 27TH, 1937, FROM DR. ANTOINE CHALFOUN, BEIRUT (document C.P.M.2041) (pages 103-104, 191).

Observations of the French Government, dated June 7th, 1938 (document C.P.M.2041).

Report (see Minutes, Annex 27, page 224).

*Conclusions.*

“ The Commission,

“ Having examined the petitions, dated August 14th and October 27th, 1937, from Dr. Antoine Chalfoun, Beirut, and the mandatory Power's observations thereon :

“ Considers that no special recommendation need be made to the Council regarding these petitions.”

**Tanganyika Territory.**

- (a) PETITION, DATED SEPTEMBER 30TH, 1937, FROM MR. S. V. COOKE, MOMBASA (KENYA) (document C.P.M.2006) (pages 160-161, 193).

Observations of the United Kingdom Government, dated May 2nd, 1938 (document C.P.M.2021).

Report (see Minutes, Annex 28, pages 224-225).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated September 30th, 1937, from Mr. S. V. Cooke, Mombasa (Kenya), together with the detailed observations of the mandatory Power thereon :

“ Is of opinion that this petition does not call for any special recommendation to the Council.”

- (b) PETITION, CONSISTING OF TWO RESOLUTIONS PASSED ON SEPTEMBER 25TH, 1937, AT A MEETING OF THE INDIANS AT DAR-ES-SALAAM, HELD UNDER THE AUSPICES OF THE INDIAN ASSOCIATION (document C.P.M.2017) (page 189).

Observations of the United Kingdom Government, dated April 4th, 1938 (document C.P.M.2017).

Report (see Minutes, Annex 29, pages 225-226).

*Conclusions.*

“ The Commission,

“ Having examined the petition, dated September 25th, 1937, from the Indians of Dar-es-Salaam, and the observations of the mandatory Power thereon :

“ Notes, that according to the information furnished by the mandatory Power, this petition no longer has any justification, the petitioners' requirements having been satisfied on October 23rd, 1937.”

<sup>1</sup> See Minutes of the Thirty-third Session of the Commission, page 175.

<sup>2</sup> *Ibid.*, page 179.

### Togoland under British Mandate.

PETITION, DATED AUGUST 9TH, 1937, FROM M. JOHANN A. AGBOKA, PRESIDENT OF THE "BUND DER DEUTSCH TOGOLAENDER", ACCRA (document C.P.M.2022) (pages 111, 192).

Observations of the United Kingdom Government, dated April 29th, 1938 (document C.P.M.2022).

Report (see Minutes, Annex 30, page 226).

#### *Conclusions.*

"The Commission,

"Having examined the petition, dated August 9th, 1937, from M. Johann A. Agboka, President of the 'Bund der Deutsch Togoländer', Accra, and the observations of the mandatory Power thereon :

"Is of opinion that no special action is called for on this petition."

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## II. COMMENTS OF THE ACCREDITED REPRESENTATIVES SUBMITTED IN ACCORDANCE WITH SECTION (e) OF THE CONSTITUTION OF THE PERMANENT MANDATES COMMISSION.

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### A. PALESTINE.

LETTER FROM THE ACCREDITED REPRESENTATIVE, DATED JULY 26TH, 1938.

I have the honour to acknowledge the receipt of your letter of June 30th with which I received an advance copy of the observations of the Permanent Mandates Commission drawn up as a result of the examination, at its recent session, of the administration of Palestine and Trans-Jordan in 1937.

I would venture to point out that the seventh paragraph of these observations, regarding the present "transitional situation", seems to me to give not quite a clear expression of the view which I endeavoured to convey to the members of the Permanent Mandates Commission. I did not intend to say that the present "transitional situation" was the outcome of events that have occurred in Palestine. I merely wished to make the point that it is to be distinguished from the "transitional period" for which the Royal Commission made certain specific recommendations; the latter being the period which will elapse between the adoption of a definite plan of partition (no such definite plan has yet been adopted) and the actual introduction of the new regime.

With regard to the second sentence of paragraph 8 of the observations, I should explain that His Majesty's Government in the United Kingdom could not agree with the view that the present system of control of immigration represents a partial suspension of the mandate. They will take the opportunity of defining their attitude on this question when the observations of the Permanent Mandates Commission are considered at the forthcoming meeting of the Council of the League of Nations.

(Signed) J. E. SHUCKBURGH.

### B. TANGANYIKA TERRITORY.

LETTER FROM THE ACCREDITED REPRESENTATIVE, DATED JUNE 30TH, 1938.

I have the honour to return to you the observations of the Permanent Mandates Commission which were enclosed with your letter of June 28th.

I have only two comments to make :

2. In paragraph (1) the impression gained is that no force was used to quell the disorders on Kilimanjaro. The reports of the disorders shew that a measure of force had to be used (by the Police) in the Machame Chieftdom in order to disperse the rioters.

3. In paragraph (3), it is presumably the Exchequer loans which are referred to; the public loans and their method of refunding are set out in the Reports and Estimates.

(Signed) D. MACKENZIE-KENNEDY.

### C.

The accredited representatives for Syria and Lebanon, Togoland under French Mandate, Nauru, New Guinea and South West Africa have stated that they have no comments to make on the observations contained in the report of the Permanent Mandates Commission.

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## INDEX

### Abbreviations

Admin.	=	Administration
Cttee.	=	Committee
Comm.	=	Commission
Dept.	=	Department
Govt.	=	Government
Int.	=	International
Org.	=	Organisation
P.M.C.	=	Permanent Mandates Commission
Recomm.	=	Recommendation
Ref.	=	Reference

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**Erratum to the Text of the Minutes.**

On page 74, the words : "*Deutsche Allgemeine Zeitung, Berlin*" should read as follows : "*Allgemeine Zeitung, Windhoek*".







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OF THE PERMANENT MANDATES COMMISSION**

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"	"	Annexes (A.19. Annexes. 1923.VI)	5/-	\$1.20
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"	"	Annexes (A.13.1924.VI.II)	9d.	\$0.20
Fifth	"	(October 23rd-November 6th, 1924) (C.617.M.216.1924.VI)	6/6	\$1.60
Sixth	"	(June 26th-July 10th, 1925) (C.386.M.132.1925.VI)	6/6	\$1.60
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