

The Development of the A Mandates 1928—1930.

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Article 22 of the Covenant of the League of Nations which introduced the Mandate System, distinguished between the former German Colonies and certain communities formerly belonging to the Turkish Empire. The latter, it was stated, had reached a stage of development where their existence as independent nations could be provisionally recognised, subject to the rendering of administrative advice and assistance by the Mandatory until such time as they are able to stand alone. It has been said that Article 22 serves rather to guide an evolution than to define a status. And the evolution of the countries detached from Turkey and placed under the mandate of France and Great Britain, has been as remarkable for its rapidity as for its variety.

It is proposed in this article to consider the story of their progress during the last two years. The country which from the beginning has successfully claimed to be treated as an independent nation is Iraq, known before the war as Mesopotamia. So insistent was its demand, indeed, that the Mandate status has never been definitely imposed upon it, but has been exchanged for a treaty relation with the Mandatory Power which, on its side, has maintained its responsibility towards the League of Nations in accordance with an Act approved by the Council.

The Mandate for Iraq was drafted in 1921, but before it was confirmed by the Council of the League, Great Britain had concluded a treaty of alliance with King Faisal who had ascended the throne in August 1921, and in that treaty set out the main terms of the mandatory relation. It undertook to furnish the Kingdom of Iraq with the advice and assistance it required, but so as not to impair the national sovereignty. And the King of Iraq undertook, on his side, to be guided by the advice of the representatives of the British Government in all important affairs concerning the international and financial interests of the British Government. He was to frame an organic law for presentation to a constituent assembly, and to give effect therein to the principles of the Covenant of the League, so as to ensure complete freedom of conscience and the free exercise of all forms of worship; to introduce

no discrimination between the inhabitants on the ground of race, religion or language, and to secure that the right for each community to maintain its own schools should not be impaired. He was not to introduce any discrimination against the nationals of any state which was a member of the League, and he was not to obstruct or interfere with any missionary enterprise. As regards foreign relations, he was to have the right of representation in London and certain other capitals, and elsewhere the people of Iraq were to enjoy British protection. The treaty was made for a limited period of years, and was to terminate upon Iraq becoming a member of the League of Nations, and in any case not later than four years from the ratification of peace with Turkey. There was provision for reviewing the terms of the treaty from time to time, and in effect they have been frequently reviewed; for the young state of Iraq has been in a hurry to be fully emancipated. In 1926 when the Council of the League gave a decision with regard to the inclusion of the Vilayet of Mosul in the Kingdom of Iraq, it attached the condition that the treaty between Great Britain and Iraq should be prolonged for a period of 25 years unless Iraq were in the meantime admitted to the League. In 1927 fresh agreements were made between Great Britain and Iraq, providing anew for the financial and military arrangements between the two powers. Great Britain gave an undertaking to press for the admission of Iraq as a state of the League in 1932, i. e. at the end of the second period of four years from the ratification of the treaty of peace with Turkey. The undertaking was subject to the condition that Iraq should be progressing satisfactorily. In 1928 renewed negotiations took place between the Mandatory and the Iraqi Government with a view to enabling Iraq to provide more fully for her own defence, and to be more independent of the British forces. A popular outcry, however, was raised against a proposal for conscription; and it appeared that the veiled mandate was scarcely more acceptable than the naked mandate. Influenced by the general discontent, the British Government announced, in the summer of 1929, that it proposed a more radical modification of its relations with its ward, and decided to recommend, without further condition, that Iraq should be admitted as a member of the League in 1932. It communicated that decision to the Permanent Mandates Commission as well as to the Council, and made it clear that in its view the country was now fitted for complete self-government.

The members of the Permanent Mandates Commission were inclined to be somewhat dubious of the maturity of the young state, and asked that further information should be given by the British representative on the capacity shown by the Iraqi ministers, on the position of foreign nationals, freedom of conscience, economic equality, and

guarantees of the rights of racial minorities. These are the principal matters for which the Mandatory is responsible to the Society of Nations. And as regards the machinery for emancipating a mandated state it was suggested that two decisions would be required: (a) a unanimous decision of the Council of the League to relieve the mandatory of her responsibility towards the League of Nations, and (b) a decision of the Assembly, by at least a two-thirds majority, to admit a new state to the League. It was suggested also by Mons. Orts, a member of the Commission, that even after Iraq had been admitted to the League, the former mandatory would retain moral responsibility for the conduct of her emancipated ward for a limited period. The moral responsibility would oblige the mandatory power to guarantee the maintenance of the acquired rights of minorities and of all the states members of the League; and these guarantees for third parties should be provided in the Treaty contemplated between Great Britain and Iraq¹⁾. The Council of the League at its meeting in January, 1930, considered Great Britain's representation, and the rapporteur, Mons. Procope, observed that the decision brought them face to face for the first time with the problems which might arise in connection with the termination of a mandate. It would be for the Council to ascertain at the proper moment whether the provisions of Article 22 of the Covenant should cease to apply to Iraq, while it would be for the Assembly to decide on the question of the admission of Iraq as an independent state. During the period of two years before the question would come up for decision, the Mandates Commission would continue to exercise its supervision, bearing in mind the expressed intention of the Mandatory. The Council finally requested the Mandates Commission to submit suggestions which would enable it to decide on the general conditions which should be fulfilled before a mandate comes to an end.

Great Britain has proceeded with her negotiations with Iraq on the assumption that the mandate shall come to an end in 1932. She concluded a Treaty of Alliance on this basis, which was signed at Bagdad on the 30th June 1930, and has been presented to Parliament. The Treaty was ratified by the two contracting parties in February 1931, after the meeting of the Council of the League at which its proposals were communicated, but it will come into force only after the admission of Iraq to the League.²⁾

The Treaty recites the previous relations of the two parties, and then continues: —

“Whereas the mandatory responsibilities accepted by His Majesty in respect of Iraq will automatically terminate upon the

¹⁾ Minutes of the Permanent Mandates Commission, 16th session, p. 146.

²⁾ 1930. Cmd 3627.

admission of Iraq to the League of Nations, and whereas His Britannic Majesty and His Majesty the King of Iraq consider that the relations which will subsist between them as independent sovereigns should be defined by the conclusion of a treaty of alliance and amity, they have agreed to conclude a new treaty for this purpose on terms of complete freedom, equality, and independence, which will become operative upon the entry of Iraq into the League of Nations.”

Article 1 of the treaty states that “there shall be perpetual peace and friendship between the two kingdoms, and that there shall be established between them a close alliance in consecration of their friendship, their cordial understanding and their good relations. And there shall be full and frank consultation between them in all matters of foreign policy which may affect their common interests.” Iraq will be related to Great Britain as a *Civitas Foederata* was related to Republican Rome. Each party will be represented at the court of the other by a diplomatic representative. It is agreed in an accompanying note that the British representative shall have the status of an ambassador, and in view thereof the Iraq Government intend that he and his successors shall have precedence in relation to the representatives of other powers. In case of any dispute between Iraq and a third state which involves the risk of a rupture, the two parties are to concert together with a view to a settlement by peaceful means in accordance with the provisions of the Covenant of the League and of any other international obligations. If, nevertheless, either of the parties become engaged in war, the other will immediately come to his aid in the capacity of an ally. The Treaty thus contemplates an offensive and defensive alliance; but it is expressly declared that it is not to prejudice the rights and obligations under the Covenant of the League or the treaty for the renouncing of war signed at Paris in 1928, — which is commonly called the Kellogg Pact. The alliance would only become operative against a member of the League in the contingency that the League had countenanced war against some recalcitrant state. But the possibility of Great Britain being called on to support Iraq in a war with her Arab neighbour-State Nejd and the Hedjaz — with which Great Britain herself is on terms of amity, — has given rise to some misgiving.

Article 5, which deals with the defence of the new state from external aggression, lays down the general principle that responsibility for the maintenance of internal order and the defence of the country rests with the King of Iraq. It qualifies that principle, however, by the recognition that the permanent maintenance and protection in all circumstances of the essential communications of His Britannic Majesty is the common interest of the two parties. For this purpose, and to

give effect to the alliance, the King of Iraq will grant to Great Britain sites for air bases at or in the neighbourhood of Basra and to the west of the Euphrates, thus to safeguard the British air-route to India. The King of Iraq also authorises Great Britain to maintain forces at these places, on the understanding that the presence of those forces shall not constitute an occupation, and will in no way prejudice the sovereign rights of Iraq. The provision is similar to that which was contemplated in the abortive treaty with Egypt with regard to the presence of British troops in the area of the Suez Canal.

Article 7 states that the treaty shall replace the existing treaties of alliance and the subsidiary agreements. The parties recognise that upon its entry into force all responsibility devolving in those treaties upon Great Britain in respect of Iraq will automatically and completely come to an end, and so far as they continue they will devolve upon the King of Iraq alone. In other words, all the responsibilities of the mandatory with relation to the peoples of the country, and particularly to minorities, and to members of the League of Nations will be transferred to the independent State; and the suggestion made by the Permanent Mandates Commission of a transitory continued responsibility of Great Britain is not adopted.

The Treaty is declared to be made for a period of 25 years. An annex to the Treaty provides for the maintenance of British forces at Hinaidi on the Euphrates for a period of five years after the entry into force of the new agreement, in order to enable the King of Iraq to organise the necessary forces to replace them. British forces may also be maintained at Mosul for a maximum period of five years. After that time British forces will be maintainable only at the air bases mentioned in the Treaty itself. Great Britain will grant all possible facilities for the naval, military and aeronautical instruction of Iraqi officers in the United Kingdom, the provision of arms and munitions, ships and aeroplanes for the forces of Iraq, and the provision of British official military and air-force officers to serve in an advisory capacity with those forces. The King of Iraq on the other side will have recourse only to British military instructors, and any personnel of the forces sent abroad for military training will be sent to British schools and training centres so far as they can be admitted there. Lastly, the King will afford — when so requested — all facilities for the movement of British forces in transit across Iraq, and the transport and storage of all supplies equipment that may be required by the forces during their passage across Iraq. These facilities shall cover the use of the roads, railways, waterways, ports and aerodromes of Iraq, and British ships shall have permission to visit the Shatt-al Arab. In the exchange of notes attached to the Treaty there is a letter from the Foreign Minister of

Iraq stating that it is the intention of his Government to ask for a British Advisory Military Mission which will carry on the work of the existing Military Mission.

By a further exchange of notes arrangements are made for the transfer by the British Government to the Iraq Government of the aerodromes and encampments of the British Air Forces at Hinaidi and Mosul, the railway system in Iraq which was constructed by the British Forces, and the port works at Basra on the Persian Gulf (see Command Paper 3675, 1930). The aerodromes are to be purchased by the Iraq Government, at one third of their original cost price, after the expiration of the period during which under the Treaty the British Government may retain possession of them. The arrangement for the transfer of the railway system is that the legal ownership shall be vested in the Iraq Government; and then the beneficial ownership will be vested by lease or otherwise at a nominal rent in a special body or corporation to be constituted by the legislature of Iraq. The terms of the lease are to be approved by Great Britain, and the capital of the corporation will be divided between the British and the Iraq Governments, an amount of preferred stock, representing the expenditure incurred by the British Government in the construction of the railway, being allotted to Great Britain. There will be five directors of the corporation, two appointed by the British and two by the Iraq Government; and the Chairman chosen by the two Governments in agreement.

The position of the existing British railway officials is safeguarded; such of them as are recommended by the director of the railway are to receive a three years contract which may be terminated only by agreement with the British Government. Similarly the property of the British Government at the Port of Basra is to be transferred to the legal ownership of Iraq, but the port is to be administered by a special trust constituted by the legislature. So long as any part of the debt owing to Great Britain in respect of the port is outstanding, the port will be administered by the trust which will receive a lease or concession from the Government. The British Government will have a voice in the appointment and management of the trust; and in this way its financial interests will be protected. Thus the new state will become immediately legal owner of its railways and port, and will liquidate its debt to the former mandatory by allotting to it a share in the capital of the enterprises and in the administration of the special bodies that will conduct these enterprises.

In the same month of June 1930 in which the Treaty was signed, the Permanent Mandates Commission, at Geneva, considered again the question of the admission of Iraq as a member of the League of Nations. It did not, however, enter into detailed discussion of the

question; but appointed a sub-committee to consider the resolution of the Council of the League with regard to the framing of conditions that should govern the admission of a new state. And it received a memorandum from the Vice President of the Commission, Mr. Van Rees, which will form the basis of the deliberations of the sub-committee.

Mr. Van Rees pointed out that the question is to be considered from two standpoints: — Article 1 of the Covenant of the League, which is concerned with the admission of states into the League; and Article 22 of the Covenant which defines the Mandatory regime. The conditions prescribed in Article 1 are that the applicant (a) must be fully self-governing: (b) must give effective guarantees of its sincere intention to observe its international obligations: (c) must accept such regulation as may be prescribed by the League in regard to military forces. The application must be accepted by a majority of 2/3rds of the assembly. With regard to Iraq the condition of self-government appears to be fully assured; for besides Great Britain, France, Germany, Italy and other Powers have formally recognised the Kingdom. And as regards the second and third conditions, he suggested that Iraq should give a formal declaration to the League of Nations that it was prepared to accept the conditions of the Covenant, to discharge all obligations devolving on members of the League, and to furnish the Council with any information which it might ask for.

With regard to the fulfilment of the conditions in Article 22 of the Covenant, Mr. Van Rees suggested that the termination of the Mandate might be reasonably made contingent on certain conditions arising out of the existing Mandatory regime: in particular (a) the interests of foreign nationals in the judicial system: (b) their interests in religious matters: (c) their interests in economic, commercial and industrial matters: (d) lastly, the protection of the rights of minorities.

No proposals can be made with regard to (a) until the Commission is informed of the principles of the new judicial system which Great Britain intends to lay before the Council of the League. As to (b) it is suggested that Iraq should sign a formal declaration safeguarding the interests of foreign nationals in religious questions, in a form at least as categorical as that which at present guarantees these interests. And in case of any dispute it should agree to a reference of the matter to the Court of International Justice. As to (c) he noted that the British Foreign Minister, Mr. Henderson, had suggested to the Council that an independent state could not be required to give guarantees as to the economic equality to be accorded to other states. But though the continuation of the guarantees laid down in the draft Mandate and the Anglo-Iraq treaty could not be claimed in virtue of any acquired rights,

it would on the other hand be fully justified by political considerations affecting the objects of the League in the attainment of which the new state was bound to co-operate. The policy of the open door was one of the bases of international goodwill. Finally, as regards the protection of minorities, he recommended the adoption of the principle laid down by the Assembly of the League in 1920, that in the event of Albania, the Baltic or Caucasian states being admitted to the League, the Assembly recognised that it should take necessary measures to enforce the principles of the Minority treaties.

It has been urged that some specific assurance should be requested on behalf of the Kurds and Assyrians who will be in the midst of a dominant Arab people. At its meeting in November 1930, when it considered the report of the government of Iraq for the previous year, the commission dealt with a petition of the Kurds asking for a self-governing Kurdish state under the supervision of the League of Nations. They pointed out in their report to the Council the mistake of the petitioners in thinking that any promise of such a state had been made, but they recommended that the Council should invite the mandatory power to see that the administrative and legal measures designed to secure for the Kurds the autonomy to which they are entitled are promptly put into force, and further to consider the advisability of taking measures to guarantee to the Kurds the maintenance of such position should Iraq be finally emancipated from the trusteeship of Great Britain. The commission discussed at the same meeting the general question of the emancipation of the kingdom, and examined the British representative about the fitness of the Iraqui people to run their affairs without guidance. They expressed the view that they had not yet received sufficient information to begin to formulate an opinion on the progress achieved by Iraq as the result of eight years under the mandatory regime. The British Foreign Secretary at the meeting of the Council in January 1931 promised that his government would furnish full report at the next session of the Council when the affairs of Iraq come up again for examination. That will probably be next June.

The course of the new state, when it comes of age and has to stand alone "under the strenuous conditions of the modern world" may not run smooth. Iraq is a new geographical expression, and it is also a territorial compromise without natural frontiers for the most part, and with ambitious neighbours. The Mandatory has indeed helped to bring about an understanding not only with Turkey but also between King Fafisal and the King of Nejd and the Hedjaz, Abdul Aziz Ibn Saud, who was the hereditary enemy of the Hashemite family. The relations of the two kingdoms whose territories abut on the western frontier of Iraq were strained for several years, and attempts to settle

them by negotiation between the Mandatory and Ibn Saud had not led to any definite result. But in February 1930 the two kings came together on board an English man-of-war in the Persian Gulf, and reached an agreement of *Bon Voisinage*, a kind of Oriental Locarno, which provides for the mutual recognition of their independence, the exchange of diplomatic representatives, the outlawing of tribal raiders, the extradition of fugitives from justice, the establishment of a permanent frontier commission, an acceptance in principle of the proposal of the Iraq government to maintain police posts in the Southern desert, and lastly, an undertaking to settle disputes over the interpretation of the treaty by arbitration. At the time of writing, however, the agreement had not been acted upon; but on the other hand it was reported that a Prime Minister of Iraq was to negotiate with the king of Hedjaz about an Arab Union. The frontiers with Syria, Palestine and Turkey have been fixed, subject to possible readjustment with Syria. Nevertheless the Kingdom will for a time be handicapped by its inaccessibility, and hampered by its difficult frontiers. It is said to have been "founded by diplomatists with the aid of a map, a pair of compasses, a ruler, and inexperience". When it becomes entirely sovereign and independent, and its Government is no longer limited by the conditions of the mandate with regard to territorial integrity, it is possible that an adjustment of the frontier may be made with its neighbouring states which will simplify the position. Even so economic difficulties will remain.

The principal potential wealth of the country lies in the development of its vast oil resources on the one side, and the restoration of its irrigation system on the other. The development of the oil wealth of Iraq has, from the beginning of its history as a State, been one of the dominant issues. For to day it may be said that trade follows the oil route. The country possesses two great oil-fields, the Mosul field for which the former Turkish Petroleum Company, now the Iraq Petroleum Company has a concession: and the field on the Persian border partly within Persia for which the Anglo-Persian Oil Company has a concession, which was being worked at the outbreak of the war. The latter concession under its original terms would have come to an end in 1961, but by an agreement made with the Iraq Government in 1921 an extension of 35 years has been granted. The question was raised by the Permanent Mandates Commission whether this extension was in accordance with the Mandate principles of economic equality in relation to concessions. Dr. Kastl, the German member of the commission, presented a report to that body on the matter, in which he found that there was nothing in the Anglo-Iraq Treaty which prevented the Iraq Government from granting an extension of an existing pre-war concession without calling for public tenders, and therefore there was no ground for interference.

The position with regard to the Mosul oil-field is far more complicated. Here also a pre-war commitment existed, so that the policy of the open door could not be applied in its integrity. The arrangements between the Allied powers for the allocation of the mandates made at San Remo in 1920 included an agreement between England and France with regard to this oil concession then Turkish, held by the Petroleum Company; and, subsequently, another agreement was made with the oil interests of the United States by which the capital of the reformed Iraq Petroleum Company was divided equally between the four groups, English, French, Dutch, and American. The closed door was half-opened, and in place of an exclusive concession for the whole area, the Iraq Petroleum Company received an exclusive right of prospecting for a certain number of years, and was then required to select twenty-four plots, each of an area not exceeding eight square miles, within the area prospected, and within a period of four years to begin construction of a pipe line from the oil field to the sea. The period has been extended by successive agreements with the Iraq Government till 1934.

The San Remo agreement provided for the passage of a pipe-line to either a Syrian or Palestine port; and the question of the outlet is about to be settled. France is anxious that the oil should be brought to a Mediterranean port under her control, and regards that as a vital factor in her defence scheme. She presses, therefore, for the immediate construction of a pipe-line to Tripoli or Alexandretta. On the other hand, the Iraq Government desires that the pipe-line shall be carried to Haifa because the line will be accompanied by a railway, and the construction of a railway through Trans-Jordan and Palestine would best serve her interests, and would also be preferable from the point of view of security. The route would restore the old Via Maris of the Roman empire. The oil Company itself, which is to build the pipe-line and the railway, is not anxious immediately to develop the resources of the Mosul field because of the present over-production of oil. On the other hand, the Iraq Government is anxious immediately for the development of the field so that it may draw its royalties, which are a prospective important source of revenue to the impoverished treasury. The British Mandatory again would prefer that the pipe-line and the railway should end at a port under her control.

In this crisscross of interests, political and economic, there enters yet another element. A rival oil-group known as the British Oil Development Company has been pressing for years for a concession in the Iraq oil fields, and has associated groups of Italy, Germany and Switzerland in its enterprise. It claims that the Iraq Petroleum Company should be held strictly to its undertaking to complete prospecting and select

its twenty-four plots, and that then other companies should be enabled to take up other areas. The question has been several times before the Permanent Mandates Commission, and it is possible that a solution will be found by an enlarged international consortium in which the eight different oil groups concerned will co-operate, and come to an agreement as to the development of the wealth of oil in the most economic way. By such an agreement the Government and people of the mandated territory would benefit, while the world would get an economic and scientific development of the natural resources of the country. So too the different interests of the two Mandatories, France and Great Britain, and the mandated territories of Iraq, Palestine and Syria, with regard to the pipe-line and the railway may be harmonised by the construction of a main pipe-line to some point in the desert, with branches from that point to Haifa on the one side and Tripoli on the other, so that there would be an outlet for the oil both in Palestine and in Syria. That again would serve the economic interests of Iraq, would help to draw together economically the different parts of the Arab self-governing peoples, and would satisfy the interests of the mandatory powers. A first step towards this solution has been taken by the signature of an agreement between the Company and the Palestine Government in January 1931 for the laying of a pipe-line to Haifa.

For the restoration of the irrigation system, which centuries ago made Mesopotamia one of the richest countries in the world, the Kingdom must likewise depend largely on attracting foreign capital. And to secure that the young state will have to maintain the confidence of the older states. Under the new treaty with Great Britain she will no longer be bound to follow advice in international and financial matters, but self-interest may lead her still to do so.

If Iraq is advancing rapidly to complete independence, Syria, which is under a French Mandate, has been advancing steadily in recent years to complete internal autonomy. The mandate for Syria covers two ethnologically and religiously different territories, the State of the Lebanon which has a Christian majority, and the rest of Syria which has a Moslem majority. The Mandate prescribed that the Mandatory should formulate within a period of three years an Organic law for Syria and the Lebanon in agreement with the native authorities, and taking into account the rights, interests and wishes of all the population. That obligation was carried out without difficulty as far as it applied to the Lebanon; and the constitution of a self-governing republic of the Lebanon has been in force since 1926. The Mandatory, however, incurred great difficulties in framing, with the representatives of the Syrian people, a constitution for the rest of the country. The negotiations were interrupted in 1925 by the outbreak of the Druze rebellion; and

when they were resumed in 1927, the constituent assembly which was elected in April 1928 and convened a few months later by the Mandatory proved itself recalcitrant in the recognition of the principles of the mandate. The principal point of conflict on which the assembly broke down was the control of foreign relations. The Syrian deputies desired to have the same power in foreign affairs as the British Mandatory has allowed in Iraq; and the French authorities relying on the terms of covenant were not prepared to agree to it.

After long discussion, the assembly was prorogued in February 1929. Failing to draw up the organic law for Syria in agreement with the representatives of the people, the Mandatory, after an interval of a year, issued in May 1930, by a decree of the High Commissioner, a series of five constitutional laws, for Syria, the Lebanese republic, the Province of Alexandretta, the Government of Latakia, and the Government of Jebel Druze. The Constitution of the Lebanese Republic reproduced the organic law of 1926, and contains the following provisions about the relations of the Republic to the Mandatory Power. "The powers conferred by the constitution will be exercised subject to the rights and obligations of the Mandatory Power as prescribed by Article 22 of the covenant of the League and by the Mandate . . . The constitution comprises a solemn undertaking of the Lebanese state to submit to the arbitration of the Mandatory Power the solution of any disputes which are calculated to threaten the peace . . . The Lebanese government will enter into an agreement with the representatives of the Mandatory Power with a view to establish a Lebanese Delegation at Paris and the posts of Lebanese attachés to the diplomatic and consular representatives of the French Republic in any town abroad where the number of Lebanese residents justifies such a step. The State of the Lebanon will demand its admission to the League of Nations as soon as circumstances permit, relying on the good offices of the Mandatory Power." The duration of the Mandate is thus left indefinite.

The constitution for Syria comprises a great part of the project which had been approved by the constituent assembly. And it seeks to get over the deadlock with regard to the relation of the State to the Mandatory by a transitory article in the following terms: "No provision in the present constitution is or may be in conflict with the obligations assumed by France in respect of Syria, particularly towards the League of Nations. This reservation applies especially to the articles concerned with the maintenance of order, public security and defence of the country, and those which affect foreign relations. So long as the international obligations of France in respect of Syria are in force, any provision in the constitution which might affect them shall be applied subject to conditions laid down by agreement between

France and the Syrian Government. Accordingly, any laws to be enacted which might affect these responsibilities shall not be discussed or promulgated until such agreement has been made." The law itself is not to come into operation until the Chamber of Deputies has been elected. It is, therefore, at present in the condition of a project and not a realised achievement.

The High Commissioner for Syria, however, obtained the blessing of the Permanent Mandates Commission for the organic law which he expounded before it at the meeting in July 1930 (See Minutes P. M. C. 18th session). The plan is to provide by a separate treaty between the Governments of the mandated territory and the Mandatory the special obligations of the Mandatory Power. The Permanent Mandates Commission recognised the earnest efforts made by France, to satisfy on the one hand the national aspirations of the Syrian people, and on the other hand its mandatory obligations; and expressed the hope that the leaders of the Syrian population "would loyally co-operate in the progressive organisation of the country". Its commendation gives moral force to the action of the Mandatory in enacting directly the organic law; and it remains to be seen whether that will be sufficient to get over the resistance of the extreme nationalist party which has hitherto prevented the acceptance of an autonomy in any way limited.

The organic law for Syria declares that it is an independent and sovereign state. No part of the territory may be ceded. It is a parliamentary republic, of which the President shall be a Moslem and the Capital is the city of Damascus. It is notable that, while the monarchical Mandatory for Iraq and Trans-Jordan has established monarchical states in its mandated territory, the republican Mandatory for Syria and the Lebanon has established two republican states. The separate constitutions for the three territories which form part of the Syrian nation, but are administered in a special way must be briefly noticed. The province of Alexandretta which contains a large Turkish population is placed under the authority of a Governor and an administrative council composed of 9 elected members and three nominated members. The province is a part of Syria; but ever since the mandate was conferred has been administered separately on account of the large Turkish minority amid the Arab population. The 'governments' of Latakia and the Druzes are separately administered, because in the former there is a large minority population of Shiite Moslems (called by the French 'Alaouites' or followers of Ali); while the latter is populated by a people with its own religion and traditions which has always maintained its separateness from the surrounding Moslem population. The two territories come under the more direct control of the Mandatory. The Governor of each is nominated by the High Commissioner and is

responsible to him; the approval of the High Commissioner is required for any laws or regulations, the budget, or any decrees affecting finance, concessions or monopolies; and the High Commissioner exercises any sovereign powers which are not conferred upon the local government. The greater share of the mandatory in the administration is marked by the provision that in these two territories French as well as Arabic shall be an official language, while in the rest of Syria Arabic alone is used.

In the government of Latakia there is a representative council composed partly of elected members and partly of nominated members, and in the government of the Druze country the Governor will be assisted by a council of nominated notables and directors of departments. The council of Latakia must agree to the imposition of taxes; but the council in the Druze territory is purely consultative. It was remarked by Professor Rappard in the Mandates Commission that the constitution contemplates two Syrias: one possessing responsible government; the other under direct government with certain representative institutions. The two parts may be fused when the development is sufficiently advanced to permit of reconciliation.

Economically the whole of Syria is one unit; and there may be no customs boundary between the states. The decrees issued by the High Commissioner include an organic regulation for an annual conference concerning the common interests of the five separate territories which form the subject of the mandate. The conference is designed to assist the representative of the mandatory power in the study and regulation of financial and economic questions common to the States, and is to consider the accounts of the services of common interest. It has not any executive authority but is purely a consultative body.

Time will show whether the elaborate arrangement and differentiation of the five parts of the French mandated territory will work. The experience of the last three years is indeed of good augury. Syria, after a protracted period of turbulence, has been tranquil; and the mandatory is gradually ensuring a state of order throughout the country which was not known before. It was suggested by the French representative before the Mandates commission that the continued opposition of the political leaders is dogmatic rather than practical, and that mutual goodwill is steadily increasing between the officers of the mandatory and the population. Certainly the effect of the recommendations made by the Permanent Mandates Commission to the Mandatory during the troubles of 1926 has been to improve the relation of the administration with the people.

We turn now to the mandate for Palestine, which is the most difficult, as it is the most important, of all the mandates. The function

of the mandatory in Palestine is of a special character on account of the adoption by the Allied Powers and the League of Nations of the policy in favour of the establishment of a national home for the Jewish people. The mandate directs that the mandatory shall be responsible for putting into effect this policy, subject to the condition that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by the Jews in any other country. The mandate for Palestine has therefore a threefold purpose. In addition to the trust on behalf of civilisation, which is deeply concerned with the good government of a country that contains the Holy places of three great religions, and to the trust on behalf of the present inhabitants of the country, which is common to all mandates, there is the trust to bring about a continual and gradual realisation of an agelong ideal, and to enable the new national life to be established in Palestine by the side of, and so as not to injure, the national life of the existing inhabitants. It is the problem of driving tandem with two nationalities, and at the same time training them to self-government. The Mandates commission has from the beginning recognised the peculiar difficulty of the task of the mandatory, and realised the necessity for caution in the grant of self-governing institutions in a territory in which the present majority would not be willing to co-operate in carrying out one of the main purposes of the trust. Palestine is designed to be a bi-national country: and could not be placed at once under a form of representative government in which the people of one nationality would dominate the people of the other. The Mandatory therefore has to govern and not simply to advise.

There were serious attacks of the Arabs upon the Jews in 1921 before the mandate for Palestine had come into force; but from that time, in spite of the strenuous opposition of the Arab leaders to the principles of the mandate, and their refusal to participate in a measure of limited autonomy, the history of the country was for nearly 7 years remarkably tranquil. Indeed, Palestine appeared to be progressing more smoothly and more steadily than the neighbouring territories under the mandatory regime. In 1929, however, serious troubles again broke out between Arabs and Jews. Their immediate cause was the religious feeling aroused over the praying by the Jews at a Holy site, a fragment of the wall of the ancient Hebrew Temple at Jerusalem, which is commonly known as the Wailing Wall of the Jews. The trouble started in September 1928 when, on the orders of the District Commissioner, a screen erected by the Jews at the place, which was held to be a trespass on Moslem property, was removed by the police during the prayers on the Day of Atonement. Feeling was worked up over this and other

incidents at the Wall, and although the Permanent Mandates Commission invited the mandatory government to intervene to bring about some understanding between the Jewish and Arab bodies, and the Palestine government made earnest efforts in this direction, the attempt was not successful. In August 1929, under sedulous excitation, feeling boiled over. The Arabs rose against the Jews in Jerusalem, Hebron and other places, murdered and looted, and the peace of the whole country was shattered in a few days.

The mandatory government immediately appointed a commission of enquiry to investigate the causes of the disturbance and to make recommendations to prevent a recurrence. The commission, which took evidence in Palestine over a period of two months, found that, while the immediate cause was the series of incidents connected with the Wall, the fundamental cause was the Arab feeling of animosity and hostility towards the Jews consequent on the disappointment of their political and national aspirations and fear for their economic future. The commission urged that the British government should issue a statement of the policy which they intended to pursue in Palestine; and should define the interpretation attached to the passages in the mandate providing for the safeguarding of the rights of non-Jewish communities, and lay down for the guidance of the government of Palestine explicit directions as to the conduct of policy upon the vital issues of land settlement and immigration. The Palestine mandate directs that, while ensuring that the rights and position of other sections of the population are not prejudiced, the administration shall facilitate Jewish immigration under suitable conditions, and shall encourage, in cooperation with the Jewish Agency, close settlement by Jews on the land, including state lands and waste lands not required for public purposes (Article 6). It was the application of this Article, which, in the view of the Commission of enquiry, required further elucidation.

The British government adopted the main conclusions of the report of the commission; and, in order to obtain more exact information on the question of immigration and land, appointed Sir John Hope Simpson, a distinguished ex-member of the India Civil Service, who had played a prominent part in the settlement of Greek refugees as vice-President of the Refugee Commission of the League of Nations, to carry out an expert enquiry. Pending more thorough measures it is sued, as a White-Paper, in June 1930 a statement with regard to its policy in Palestine which was communicated, together with the report of the enquiry, to the Permanent Mandates Commission. That document indeed was rather a statement *with regard to* policy than a statement *of* policy, and concerned more to expound the difficulties of the position than to point a way to their solution. It emphasised, however, the

double undertaking which is involved in the mandate, to the Jewish people on the one hand and the non-Jewish population on the other hand; and reiterated the resolution of the mandatory to give effect in equal measure to both parts of the declaration, and to do equal justice to all sections of the population. With regard to immigration it expounded the principle which had guided the mandatory government, that immigration should not exceed the economic capacity of the country at the time to absorb new arrivals: but remarked upon the difficulty of its practical application. And with regard to autonomy it stated that the absence of self-government was not due to any lack of goodwill on the part of the mandatory power; but it must be a primary condition of any constitutional change in Palestine that the Mandatory should reserve to itself the power of carrying out all obligations imposed by the mandate.

The Permanent Mandates Commission held a special sitting in June 1930 to consider the report of the mandatory for Palestine for the past year, and particularly the special report of the enquiry into the disturbances. For over a week it subjected the representatives of the mandatory to a thorough examination, both upon the report and on the conduct of the government before and after the outbreak. Subsequently it framed a report to the Council of the League — the body to which it is responsible — in which it criticised certain findings of the commission of enquiry, and also certain features of the policy pursued by the mandatory and the Government of Palestine. Whilst the British commission had exonerated the government of Palestine from all blame for the disturbances, the Permanent Mandates Commission was inclined to criticise the inadequate arrangements made for the maintenance of order and certain administrative defects which had appeared. On the larger issue they reflected on the policy of the mandatory in not taking more active measures to promote close settlement and develop the agricultural resources of the country. They suggested that the discontent of the Arabs was aggravated by the fact that, while the Jewish immigrants received abundant help and scientific direction from Jewish bodies, the Arab farmers and peasants were left to their own resources, and became apprehensive that they would be swamped by the newcomers. It was the duty of the mandatory to engage in an active policy of land development which would facilitate close settlement both by Arabs and Jews. With regard to the development of self-governing institutions, which is directed in Article 2 of the mandate, the commission recognised the need of making that injunction conform with the fundamental obligation of the mandatory in placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home.

The British government, to which the observations of the Permanent Mandates Commission were communicated, did not meekly accept these strictures, and published a memorandum of comments which were designed to refute them. With regard to the lack of foresight of the government of Palestine in taking measures to prevent outbreak, they retorted that the Permanent Mandates Commission had not previously pointed out any deficiencies in the measures of the Palestine government, and suggested that the 'after wisdom' was misplaced. And with regard to the broader policy, they contended that the government of Palestine had already done much positively to develop the resources of the country and to improve the position of all its inhabitants, and that larger schemes of development must be dependent on the financial means of the country, because it was a primary consideration that the mandated territory should become financially independent. Although the criticisms of the Permanent Mandates Commission, in accordance with the habit of that body, were framed in the way of cooperation and not of reproach, a note of annoyance was apparent in the reply of the British government, as though the members of the commission had gone beyond their function in reflecting on the administration of the mandatory. When, however, the report came up for consideration at the Council of the League in September 1930, the British member of the council, Mr. Arthur Henderson, the Foreign Secretary of the Labour Government, was careful at once to repudiate any such imputation. He agreed that it was the duty, as well as the right, of the Permanent Mandates Commission to criticise anything in the work of the mandatory, and to make recommendations for change. And by the resolution of the Council, the recommendations of the Permanent Mandates Commission were accepted without any acrimonious discussion. The British representative intimated that his government was closely considering the report of the special commissioner, Sir John Hope-Simpson, on the questions of land settlement and immigration, and hoped to be able to implement his recommendations, and thereby to give effect to the suggestions of the Permanent Mandates Commission for a more active policy in regard to the development of the country.

About a month after the meeting of the Council of the League, the British government published the report of Sir John Hope-Simpson, and with it a White Paper defining afresh its policy in Palestine.

The statement specified three practical problems with which His Majesty's government had to deal, security, constitutional development, economic and social development. As regards security, it was the primary duty of the administration to ensure peace, order and good government; and to that end, and to prevent any further disturbances, it had decided

to retain in the country two battalions of infantry besides certain sections of the Air-force which had been there since the riots, and to increase largely the British section of the police. As regards constitutional development, it had decided to set up a legislative council on the lines indicated in the Statement of Policy of 1922 and embodied in the Palestine Order in Council of that year. There should be a council consisting of the High Commissioner and twenty-two members, of whom ten will be officials and twelve unofficial members who would normally be elected by primary and secondary election. In order, however, to avoid a repetition of the deadlock which occurred in 1923 when a large part of the Arabs refused to participate in the elections, the government have devised steps to ensure the appointment of the requisite number of unofficial members in the event of non-cooperation of any section of the population. The High Commissioner would continue to have the necessary power to ensure that the mandatory shall be enabled to carry out its obligations to the League of Nations, including any legislation urgently required. That was the measure of self government compatible with the terms of the mandate which the mandatory proposed to introduce.

As regards the third problem, which was concerned with questions relating to land, immigration, and unemployment, while confirming the broad lines of policy in the application of the mandate that had been laid down in 1922, the statement emphasised the obligations of the mandatory with relation to the non-Jewish population of Palestine. And it criticised several features in the work of the Jewish bodies that were building up the Jewish national home. It envisaged action by the mandatory for the development of the land with a view to improving the lot of the Arab farmers, and for providing land for such part of the peasant population as were landless; and it suggested that Jewish immigration and Jewish land purchase should be checked until Arab unemployment had been absorbed and the landless Arabs were provided. The statement was attacked, not only by Jewish bodies throughout the world, but also by representatives of English opinion which was in sympathy with the policy of the Jewish National Home, and by statesmen who had played a part in the execution of that policy, as being contrary to certain principles of the mandate.

Moved by this outburst of opinion and by criticisms raised in a debate in the House of Commons, the government entered into negotiations with the representatives of the Jewish Agency with a view to the better elucidation of the policy. And in February 1931, as the result of these negotiations, there was published a letter signed by the Prime Minister and addressed to Dr Weizmann, the head of the Jewish Agency, "in order to remove certain misconceptions and misunderstandings.

which have arisen as to the policy of His Majesty's Government with regard to Palestine". The letter is to be read as an authoritative interpretation of the White Paper. The general purport of the interpretation is to affirm and emphasise the obligations of the Mandate concerning the Jewish national home, to remove any slurs upon Jewish effort and Jewish organisations which were read into the White Paper, and to give fresh assurances about Jewish immigration and Jewish settlement upon the land. The letter concluded with an earnest invitation to both sides for "cooperation, confidence and a readiness to appreciate the difficulties and complexities of the problem; above all there must be a full recognition that no solution can be satisfactory or permanent which is not based upon justice, both to the Jewish people and to the non-Jewish communities of Palestine". Dr Weizman declared that the statement reestablished the basis for that cooperation with the mandatory power on which the Zionist policy was founded.

Lord Cecil of Chelwood stated in an article which was published before the controversy began, that there was a danger in treating the terms of the Palestine mandate as a kind of tight-rope over which the administration must walk so as to avoid the Scylla of injustice to the Arabs and the Charybdis of faith-breaking with the Jews. That would be to misinterpret it both in spirit and in letter, and the surest way to fall into both dangers. Its terms must be considered as a whole, and in the light of its broad principles. The danger was made apparent by the trouble which was aroused over the issue of the last White paper. But it may be more possible to find in acts than it has been in words a true balance of the policy that shall give effect to both sides of the mandate. The Permanent commission will have to express its opinion upon the documents issued by the British government; and it will be for the Council in the last resort to say if they satisfy the terms of the mandate and the recommendations to the mandatory Power advanced last year by the Council.

The immediate cause of the disturbances in Palestine, the question of the Wailing Wall, has moved meantime towards a solution. The British commission of enquiry into the riots made an immediate recommendation that the British Government should take steps to secure the earliest appointment, under Article 14 of the mandate, of an *ad hoc* commission to determine the rights and claims in connection with the Wall. Acting on this recommendation, His Majesty's government made a proposal at the end of 1929 before the Permanent Mandates Commission for the appointment of a tribunal. That body, while expressing its sympathy with the desire of the mandatory, could not comply with the request, for the technical reason that the mandate did not provide for the appointment of an authority to deal with a particular

Holy place as distinguished from all the Holy places in dispute. The British government then referred the matter to the Council of the League, and requested that the Council should find a means of overcoming the formal difficulty in view of the importance of a settlement for the peace and good order of the mandated territory. The Council of the League, after reasserting that it was anxious to place the mandatory power in a position to carry out its responsibilities under Article 13 of the mandate, without prejudicing in any way the whole of the problem relating to the question of the Holy places, decided that a commission should be entrusted with the final settlement of the rights and claims of Jews and Moslems with regard to the Wall. The commission was appointed then expressly in order to enable the mandatory to carry out his obligations under Article 13 which imposed upon him all responsibility in connection with the Holy places, including that of preserving existing rights and securing free access and free exercise of worship whilst ensuring the requirements of public order. It was agreed that the body should consist of three members who should all be of other than British nationality, and one of whom should be eminently qualified for the purpose by the judicial functions he has performed. The commission, composed of a Swedish ex-minister of Foreign affairs, a Swiss judge, and a Dutch ex-governor of the Indies, arrived in Palestine in June 1930 and conducted its enquiries for a month. It heard the evidence of the Moslems and the Jews who were both represented by Counsel. It endeavoured, without success, to bring about a peaceful understanding between the two sections, and delayed in submitting its report in order that a further opportunity of such settlement might be utilised. In the end however, the two parties could not agree, although earnest efforts for an understanding were made: and the commission submitted its report to the Mandatory Power. The report has not yet been published, but at least that peculiar difficulty of the execution of the Palestine mandate should soon be disposed of.

One other development of the A Mandates is to be considered; and affords an example of "the infinite variety" that distinguishes the application of the system in its relation to peoples who have reached the stage of development where their existence as independent nations can be provisionally recognised. The mandate for Palestine covers the country known as Trans-Jordan: that is, the land on the east side of the Jordan, stretching to the Syrian desert on the east and to the Arabian peninsular on the south, which comprises the biblical lands of Midian, Moab, Ammon and Bashan. A clause of the mandate declares that in these territories the mandatory may postpone or withhold the application of such provisions as he may consider inapplicable to existing local conditions, and make such provision for the administration

of the territories as he may consider suitable to these conditions. The consent of the Council of the League was obtained in September 1922 for the exclusion from application in Trans-Jordan of the articles of the mandate which referred to the Jewish Agency, responsibility in connection with the Holy places, and certain other clauses that concerned the Jewish national home. Subsequently, the High Commissioner for Palestine announced that the mandatory proposed to recognise the independent government of Trans-Jordan under the rule of an Emir provided the government received a constitutional form.

A treaty was negotiated between the British government and the Emir on lines similar to those of the treaty with the Kingdom of Iraq: and it was signed at Jerusalem in February 1928. The Emir of Trans-Jordan has full power of administration and legislation over the country and exercises his powers through a constitutional government with appointed ministers and an elected legislature; but he is subject to the advice of representatives of the mandatory in regard to matters which concern the obligations of the mandate and the principal financial and military arrangements of the territory. An organic law prepared by the mandatory was issued by him in 1928 and provides for a legislature composed of sixteen elected members and six ministers. A council elected in accordance with the constitution held its first session in April 1929, and finally accepted the treaty with His Majesty's government. The Permanent Mandates Commission commented on the coming into force of the treaty which involved radical modifications of the administrative system, and in particular reduced the responsibility of the mandatory with regard to legislation and administration. The principle however of allowing the mandatory to substitute advice and assistance to an autonomous government in place of exercising direct legislative and administrative powers had already been accepted by the Council of the League in relation to Iraq. And although the mandate for Palestine which covered Trans-Jordan was framed so as to give the mandatory direct power, yet the territory of Trans-Jordan was, like the Kingdom of Iraq, included in the area in which the Allied powers had undertaken to establish Arab autonomy. The peculiar difficulties of the Jewish national home also, which had required the mandatory to exercise larger direct powers in Palestine proper, did not apply in the neighbouring territory. Thus it has come about that the more primitive country, Trans Jordan, has at the moment a larger measure of independence and autonomy than the more developed country of Palestine.

It has been noted by Professor Toynbee that by a strange necessity the pace at which the Arab peoples have severally approached their common goal of political independence is in inverse ratio to their political

maturity. The Arabs of the Hidjaz, who were the least Westernised, attained their independence in the Peace settlement. The Arabs of Iraq, who were the next most backward, have entered on the last stage of their road towards complete self-government. The Arabs of Trans Jordan who are the most backward section of the Arabs of Syria — in the larger sense — have advanced a stage on that road by the conclusion of the agreement with the Emir Abdallah. While, at the same time, the Arabs of Syria proper and Palestine are in enjoyment of a smaller measure of self-government than they had under Turkish rule, though the process of Westernisation has gone furthest among them and the desire and capacity for national self-government were strongest.

The mandate system in Iraq has nearly run its course, and the goal of independence is now in sight for the country. The admission of Iraq to the League will demonstrate that a mandate can be worked and can be concluded; and that under the guidance of a guardian a people new to the responsibilities of a State can in a short space of years reach the stage where it is able to stand alone. The progress towards independence of the other peoples detached from Turkey and placed under tutelage has been steady, save in Palestine where the Mandate has a special character and function. The greater or less degree of self-government which is accorded to them depends partly on the political tradition of the guardian power, and partly on the governing condition of the trust for civilisation. It is that trust, and the need of providing simultaneously for the development and wellbeing of two peoples which limits the action of the mandatory in Palestine in the process of the emancipation of his ward. The trustee has for the time to secure fair treatment and justice for two nationalities by direct government, till the two have learned to understand one another better, and self-government may be accorded without the danger of one people dominating and repressing the other.