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THE PERMANENT MANDATES COMMISSION

AND

PALESTINE
1923 - 1939

By

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PREFACE

Following the First World War, it was decided by the Principal Allied and Associated Powers at the Paris Peace Conference that the ex-colonies of Germany and the Ottoman Empire would not be annexed by the victorious powers but would be placed under a Mandate System under the League of Nations. This study will attempt to ascertain the effectiveness of this new experiment in international supervision of the administration of a developing territory by an advanced state, the mandatory, for the "welfare" of the indigenous population, until such time as it was ready for independence.

At the core of the League supervisory machinery was the Permanent Mandates Commission which received annual reports from the mandatory powers on the administration of the mandated territories, examined these reports and made observations to the Council of the League. The focus of this study will be the Permanent Mandates Commission.

In view of the vagueness of Article Twenty-Two of the Covenant of the League of Nations about the role of the Commission, this role could extend in practice along a continuum stretching from a minimum pole of subservience to the mandatory —the role of a 'yes-man' —to a maximum pole of independence from the

mandatory — the role of a moral mentor, supervisor, initiator of policy.

For the purposes of this study the Palestine Mandate in the years 1923 to 1939 has been chosen. I hope that this thesis will also provide a record of the Palestine problem, at its inception, at the League of Nations.

The role of the Commission in the Palestine Mandate has been analysed in Chapter III from the viewpoint of the Commission itself, in Chapter IV from the angle of the Council of the League, which gave legal sanction to the recommendations of the Commission, and in Chapter V from the point of view of the indigenous population — the Arabs and the Jews. The effectiveness of the Commission's role depended, in the final analysis, on the adoption by the mandatory of the policies which the Commission recommended.

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PART I

THE CONCEPT OF THE PERMANENT
MANDATES COMMISSION

CHAPTER I

INTRODUCTION

A. Purpose of the Study.

In the era of reconstruction following the First World War, the Principal Allied and Associated Powers decided to place the ex-colonies of Germany and the Ottoman Empire under a new system which was to be different from the traditional method of annexation of ex-enemy territories by the victorious powers. This new experiment was the International Mandate System. Although the direct administration of the mandated territory was to be by an advanced nation, one of the victorious powers in fact, as Mandatory, it was to be undertaken according to Article 22 of the Covenant of the League of Nations¹ on behalf of the League - an international organization. The Mandatory Power was to provide for "the well-being" of the indigenous population and their development toward eventual independence, under a "sacred trust of civilization".

Within the League of Nations, a special commission, the Permanent Mandates Commission (hereafter referred to as P.M.C.), was entrusted with mandate questions. The potential role of this Commission might be depicted by a continuum stretching from a minimum pole of P.M.C. subservience to the Mandatory

¹League of Nations, Secretariat, Responsibilities of the League Arising Out of Article 22 (Mandates) (A.161, December 6, 1920) (Geneva; 1920) p. 5. For full text of Article 22 see Appendix.

(the role of a "yes-man") to a maximum pole of P.M.C. independence from the Mandatory (the role of a moral mentor, a supervisor, an initiator of policy). It is important to ascertain the degree of moral influence (if any) that the P.M.C. was able, in practice, to exercise on the Mandatory in the direction of the observance of the terms of the trust.

This thesis will attempt to study the role of the Commission through its operations as far as the Palestine Mandate was concerned during the period 1923 (the official coming into force of the British Mandate) to 1939 (the beginning of the Second World War). The Palestine Mandate was chosen for this study because it entailed a constant controversy about the interpretation and fulfilment of the obligations of the Mandatory toward the indigenous population.

The influence of the P.M.C. will be studied in regard to three main controversial issues which concerned these obligations: self-government, immigration, land; and two crisis periods: The disturbances of 1929 and those of 1936-39.

The main sources of this study have been thirty-four volumes comprising the Permanent Mandates Commission Minutes and sixteen volumes of the League of Nations Official Journal - which includes the debates of the Council of the League.

B. Establishment of the Mandatory Institution
Under the League of Nations — A Compromise

At the time of the Paris Peace Conference, after the First World War, the following four main formulae for the solution of the problem concerning the future of the Colonies of Germany and the Ottoman Empire were contemplated:

1. restoration to the defeated powers under some international supervision;
2. Self-determination interpreted as independence;
3. annexation by the victorious powers; and
4. internationalization.

However, these formulae were found unacceptable.

A project put forward by the German Society of International Law and approved by the German Government at the time of the drafting of the Covenant of the League of Nations called for the administration of all colonies, including the territories of the Allies, by the colonial powers themselves but under the supervision of delegates from the proposed League of Nations.¹ This plan was unacceptable to the Allied Powers partly because it entailed the restoration to the Ottoman Empire and Germany of their former possessions in which the Allied Powers had designs and partly because it envisaged some degree of supervision of the colonial territories of the Allied Powers themselves. Besides, the Allied powers had given to the First

¹ J. Stoyanovsky, La Theorie Generale des Mandats Internationaux (Paris: Les Presses Universitaires de France, 1925), pp. 6-10.

World War the aspect of a war of liberation particularly from the misrule of both the Ottoman Empire and Germany.¹

Self-determination, interpreted as independence, was advocated by the nationals of the former colonies of the vanquished. One of the principal propounders of this view at the Peace Conference was Feisal, son of King Hussein of Hedjaz. The principle of self-determination had been emphasized by the Russian Revolution and by the wartime promises of the Allies. Further, the Fourteen Points of Wilson which the Allies had agreed to accept as a basis for the peace settlement (with some exceptions that did not touch upon the colonial sphere), also pointed to the self-determination formula.²

Thus Point Twelve had stated:

...the nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development...³

The Allies, however, had also concluded secret treaties which were incompatible with the above pledges.⁴

¹Quincy Wright, Mandates Under the League of Nations (Chicago: University of Chicago Press, 1930), p. 28.

²Ibid., pp. 24-25.

³Robert Lansing, The Peace Negotiations: A Personal Narrative, (Boston: Houghton Mifflin Co., 1921), p. 316.

⁴For example, The Sykes-Pictor Agreement of 1916, provided that part of the Middle East would be under French control, part under British, part to be a French sphere of influence - part a British sphere of influence. The status of Palestine was to be determined by agreement between Russia, France and Great Britain, with a view to securing the religious interests of the Powers. Royal Institute of International Affairs, Great Britain and Palestine, 1915-1945, (London: The Institute, 1946), p. 7. Other secret treaties between Japan on the one hand, Great Britain, France, Russia, and Italy on the other in 1917, promised the North Pacific Islands to Japan. Wright, Op.Cit., pp.26-27.

Moreover, the actions of the principal propounder among the Allies of the principle of self-determination, President Wilson, at the Peace Conference pointed to the fact that he considered this right as a desired but unattainable moral precept.¹ Hence, having lost his support the influence of the nationalists at the Conference was not an efficacious political factor.

Restoration and independence being unacceptable, the main struggle at the Paris Peace Conference was between the advocates of annexation and internationalization. Annexation, the traditional right of the victors, was foreshadowed by the above mentioned secret treaties. This view was specially emphasized by the British Dominions, France, and Japan. Although Britain helped to give these Powers a hearing at the Conference, she did not seem to be very keen about the idea itself.² Moreover, President Wilson and most socialist parties were opposed to outright annexation in principle.³

Internationalization had been advocated by the British Labour Party in 1917. The plan it put forward provided for international administration of all the colonies of Central Africa, including the territories of the Allies, by an international commission responsible to the proposed League of Nations. The

¹Lansing, Op.Cit., p. 98.

²H. Duncan Hall, Mandates, Dependencies and Trusteeship (London: Stevens and Sons, Ltd., 1948), pp. 118-19. Hall maintains that although Britain was a party to most of the secret treaties, she was inclined more toward a mandate system for all the territories under her control rather than annexation.

³Stoyanovsky, Op. Cit., p. 13.

system would also apply to the Ottoman Colonies.¹ It would provide for the supremacy of native interests and neutralization. However, past experiences in international administration in Samoa and the New Hebrides had apparently proved this system to be inefficient.² And although President Wilson offered international administration as an alternative in his second draft of the Covenant of the League,³ he did not emphasize this point at the Paris Peace Conference. The Allied Powers were opposed to international administration and so were some of the European Labour parties.⁴

A compromise between the formulae of annexation and internationalization of the former colonies of the vanquished powers was finally arrived at. This was the International Mandate system. Professor Quincy Wright, an authority on the Mandate system, defines it as:

... a system for the administration of certain backward territories by advanced states which act as mandatories on behalf of the League of Nations according to the terms of a trust embodied in the Covenant and the Mandate, which provides for the tutelage of the inhabitants until they are able to stand by themselves.⁵

The Mandate System was mainly based on General Smuts' work "The League of Nations: A Practical Suggestion", published on December 16, 1918, just before the Paris Peace Conference.

¹Hall, Op.Cit., p. 108.

²Wright, Op.Cit., p. 26.

³Hall, Op.Cit., p. 126. President Wilson conceived of the League as "the residuary trustee with sovereign right of ultimate disposal of continued administration."

⁴Ibid.

⁵Wright, "Mandates", Encyclopaedia of Social Sciences, X, p. 87.

Smuts gave great importance to the mandate system. He referred to the League as the "heir of the empires". President Wilson incorporated the Smuts plan in his own draft of the League of Nations (January 10, 1919), with a few modifications such as the inclusion in the system of the German colonies of Africa and the Pacific. And on January 20, 1919, the idea of a Mandates Commission to supervise the system was introduced by the British "Draft Convention regarding Mandates".¹

Following the acceptance of the mandatory system by the British Dominions, on January 30, 1919, the Council of Ten² approved a revised version of the original Smuts-Wilson plan. It is significant to note that this revision was undertaken in order to arrive at a quick agreement and to limit the future actions of the mandatories as little as possible.³ On February 8th, 1919, a further final revision was undertaken by Smuts. He eliminated two paragraphs referring to the misgovernment of Turkey and Germany and added two paragraphs concerning the function of the Permanent Mandates Commission and the de-

¹Hall, Op. Cit., p. 112

²Prior to 1919, the directing body of the Peace Conference was the self-constituted Council of Ten composed of the President of the U.S.A. and the British, French, and Italian Prime Ministers with their Secretaries or Ministers of Foreign Affairs, and two Japanese Delegates of ambassadorial rank. Lansing, Op. Cit., p. 213.

³Wright, Op.Cit., p. 34. The new draft, unlike the original one, did not mention the right of revocation by the League of Nations; did not provide for the approval of the mandatory by the peoples of B and C mandates; did not specify open door policy in regard to A and C mandates; did not prohibit the use of natives by the mandatory powers in the A mandated territories for military purposes.

definition of mandates by the League Council. This text became Article Twenty Two of the League Covenant — the basis of the mandate system.

The decision of the Council of Ten preceded the reports of the two Commissions of the Peace Conference which were set up to consider the mandate question. This fact is significant. The Council of Ten, the supreme authority of the Allied and Associated Powers, was a political decision-making body. Hence the hasty decision taken on this issue was a political one rather than the result of patient expert deliberation. The vagueness of Article Twenty Two was perhaps largely due to this.

Why was the Mandate system adopted?

In the compromise arrived at, the Great Powers preserved certain of their interests. They knew that they would most probably obtain the mandate of the territories they had conquered,¹ since the Principal Allied and Associated Powers would themselves chose the mandatories. Thus, for example, on April 25, 1920, the Supreme Council at San Remo allotted the Great Britain the Mandate for Palestine (a territory that the United Kingdom had occupied during the War) in anticipation of a peace treaty with Turkey which would transfer all rights formerly possessed by Turkey to the Principal Allied and Associated Powers. With the ratification of the Lausanne Treaty of 1923, the Council of the League announced the official beginning of

¹Lansing, Op.Cit., p. 156.

British Mandatory rule over Palestine. Thus though the Mandatory Power did not annex the territories she would still be able to rule them. Moreover, the Allied Powers tended to think that this rule would in practice be relatively free of close supervision, since it was the Council of the League which was given special prerogatives in the matter of Mandates.¹ Further, there were two decided advantages in non-annexation. Had the former colonies of Germany and Turkey been annexed by the Allied Powers, the war indemnities of the Entente Powers would have been cut down by the value of the above territories. The adoption of the mandate system would not entail such a reduction.² Also the Allies would argue that they did not "owe" Italy any territories in return for its entry into the war since they had not annexed any territories themselves.³

The mandate system also appealed to the humanitarian sentiments of the people of the Great Powers. This tended to make them better inclined to shoulder financial responsibilities in these territories after an expensive war. It is highly probable that they would not have reacted favourably to carrying further financial burdens had it been just a question of colonial expansion.

Moreover, the Internationalists were satisfied. The rights of the indigenous populations were to be protected.

In the past there had been declarations to this effect

¹ Infra, pp. 40-41.

² Lansing, Op.Cit., pp. 158-159.

³ Stoyanvosky, Op.Cit., pp. 17-18.

by the colonial powers themselves. But now there was to be international supervision by a permanent international organization - the League of Nations. Further, from an administrative point of view the defects of direct international rule would be avoided.¹

For the nationalists, the mandate system provided for the consultation of their wishes in the selection of the Mandatory. Further it provided for their eventual independence.²

C. Functions of the Permanent Mandates Commission as Originally Conceived.

According to Article Twenty-Two, the Mandatory Power has to present an annual report to the Council about the mandated territories assigned to it.³ This provision was reiterated in the mandate instruments. For instance, Article Twenty-Four of the Palestine Mandate stated:

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council as to the measures taken

¹Stoyanovsky, Op.Cit., p. 16.

²This was specified only in the case of the former Ottoman territories in Article 22 of the Covenant of the League. "Certain Communities belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone". League of Nations, Secretariat, The League of Nations and Mandates (Geneva, 1924), p. 36.

³League of Nations, Responsibilities of the League, Op.Cit. p. 6.

during the year to carry out the provisions of the mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.¹

The P.M.C. was assigned under Article Twenty Two, the following function:

... To receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the Mandates.²

Article Twenty Two was silent or vague on many points which would greatly affect the role of the proposed Commission. The Article did not specify the mode of organization of this Commission and was vague about the extent of the P.M.C.'s authority. Further, it did not specify the sanctions, if any, by which the Council might back up the Commission. What was clear was that the Commission had no sanction of its own to exercise. Subject to this limit, the Commission's powers of examination and advising could be widely or narrowly interpreted in practice.

D. The Locus of Sovereignty in the Mandate System.

Article 22, left the location of sovereignty in the Mandate System vague.

According to various of the jurists sovereignty could reside theoretically in:

- the Principal Allied and Associated Powers;
- the Mandatory powers;

¹League of Nations, Secretaria, Mandate for Palestine (C.P.M. 466, September 2, 1926) (Geneva: 1926), p. 6.

²League of Nations, Responsibilities of the League, Op. Cit., p. 6

- the Mandated Territories;
- the League of Nations;
- or it could be divided or joint.

1. Principal Allied and Associated Powers.

The advocates of this theory base their main arguments on treaty clauses, on declarations of statesmen and on practice.

The main treaty clauses that they refer to are Article 119 of the Treaty of Versailles and Article Sixteen of the Treaty of Lausanne, whereby Germany and Turkey renounced their territories. According to these theorists, sovereignty was placed in the hands of Allied and Associated Powers who later delegated the exercise of it to the mandatory powers without relinquishing sovereignty.¹

They support the above arguments by pointing out that among the available documents there is not one that explicitly shows that the Allied and Associated Powers subsequently relinquished sovereignty. On the contrary, Potter refers to the modifications introduced during the drafting of Article 22 to show that Wilson did not give the League of Nations ultimate sovereignty.²

¹A.M. Margalith, The International Mandates (Baltimore: The John Hopkins Press, 1930), p. 155.

²Wright, Op.Cit., pp. 319-20.

Lord Balfour's Declaration in the Council in 1922 is also cited. According to him, "a mandate is a self-imposed limitation by the conquerors on the sovereignty which they obtained over conquered territory."¹ Others refer to the fact that the United States participated in the decisions concerning mandates and since later it did not join the League of Nations sovereignty remained in the Principal Allied and Associated Powers.²

Had this theory been adhered to it would have amounted to the diminution of the role of the League of Nations to that of a mere instrument in the hands of the Principal Allied and Associated Powers; thus drastically limiting the role of the Permanent Mandates Commission. But this theory was opposed by many jurists. Among the various argument against the above theory may be cited the following:

The treaties and mandated instruments do not support the theory. A proper interpretation of Article 119 of Versailles Treaty would show that the phrase "renounce to" is not equivalent to "cede to", since for these territories no credit was allowed for in the reparation of Germany's debt.³ Further in the documents, mandate instruments and Article Twenty Two, there is no evidence that the Principal Allied and Associated Powers retained sovereignty.

¹Ibid., P. 320.

²Margalith, Op. Cit., p. 155.

³Q. Wright, Op. Cit., p. 321.

As to the participation of the United States this was due to political considerations - its power position in world politics - rather than to the position of the United States as an Associated Power.¹ In fact, after the mandates came into operation there was no body corresponding the Allied and Associated Powers.²

According to Stoyanovsky the Powers had to transfer the territories to the League as required by Article Twenty-Two.³

2. The Mandatory Power

The thorists who placed sovereignty in the Mandatory Powers relied chiefly on interpretations of Article Twenty-Two and treaties, on the meaning of ^{the} term "trustee" in private Law, and on the practice of governing areas. Mainly they point to Article 119 of the Treaty of Versailles whereby Germany ceded its sovereignty to the Allied and Associated Powers. The latter then in turn ceded it to the Mandatories, they believed. The same was the case with the Turkish provinces.⁴

Henri Rolin, who upholds this view, refers to the mandate instrument and to Article Twenty Two. They both amounted to annexation in the final analysis, he believes.⁵

¹A.M. Margalith, Op. Cit., p. 157.

²Ibid, P. 156.

³Stoyanovsky, Op. Cit., pp. 65-66.

⁴Stoyanovsky, Op. Cit., pp. 68-69.

⁵Margalith, Op. Cit., p. 163.

Others refer to the enormous powers of government that the mandates accord to the mandatory.¹ Still others have their arguments on an analogy of the Anglo-American private law of trusts according to which the trustee has title to the property.²

If the theory of the mandatory were accepted it would have been in violation of the principle of non-annexation. The role of the Permanent Mandates Commission would have been very limited indeed. However, this theory was opposed on the ground that there was little support for it from Article 22 and none from the mandate commitments.³

After analysing the terms referring to the mandatory powers in the treaties, the theorists came to the conclusion that they were not meant to be sovereign (Arts. 120, 127 of Versailles Treaty refer to the mandatory as "government exercising authority", and Article 237 as "mandatory power acting to that capacity".)⁴

By comparing Article 257 with Article 256 of the Treaty of Versailles, Stoyanovsky emphasized the difference between transfer and cession.⁵ In the latter case the value of the territories was subtracted from the reparations required from Germany whereas

¹Wright, Op.Cit., p. 235

²Ibid, P. 326.

³Wright, Op.Cit., p.326

⁴Ibid, pp. 326-27. See also Stoyanovsky, Op.Cit., p. 70.

⁵Cession amounts to annexation, while "transfer" is just temporary administration of a territory until its readiness for independence, he asserted.

in the former they were not.¹ Stoyanovsky further questions the applicability of the private law of trusts in the mandatory system.²

3. The Mandated Territories

The advocates of this theory tend to emphasize the right of self determination.³ They draw their conclusions by referring to the meaning of "tutelage" in private law, to the eventual purpose of the mandatory system, and the spirit of Article 22. Several writers attribute it to the "A" mandates only, while there is a school of writers which attributes it to all mandated territories.⁴

Stoyanovsky in his theory of virtual sovereignty places sovereignty in the peoples of the mandated territories. The people possess this as a right. But sovereignty, like Liberty, is not exercised by the possessor when he is considered to be incapable of doing so. Hence they are placed provisionally during this period of incapacity under a tutor to whom the exercise of right is given. Thus, he distinguishes, as mentioned, above, between the exercise and possession of a right.

¹Stoyanovsky, Op.Cit., pp. 71-72.

²Ibid., p. 74.

³Wright, Op.Cit., p. 341.

⁴Ibid., p. 328.

The people have this right, according to him, because of two concepts which are the basis of international law - the principles of nationality, and self-determination. The guarantor of this system of tutelage is the League of Nations.¹ Mr. Paul Pic too places sovereignty in the Mandated peoples on the ground of tutelage.²

If this theory was accepted, the role of the Mandates Commission would have been that of a protector and family adviser - constantly on the look out that the tutor does not overstep his position. Wright and Margalith point to the weaknesses in this theory. They do not consider it appropriate to attribute sovereignty to peoples who in many cases are not organized as communities.³

Future sovereignty is different from present sovereignty, since it is based on the contingent obligations of another to transfer.⁴

4. League of Nations

This theory tends to emphasize the governmental aspect of sovereignty - as in the case of sovereignty of the mandatory but places ultimate competence of governing in the League of Nations. It draws its support from statements at the Peace Conference, Article 22, and the principle of "Mandate".

¹Stoyanovsky, Op.Cit., p. 83-86.

²Wright, Op.Cit., p. 328.

³Margolich, Op.Cit., p.168.

⁴Wright, Op.Cit., p. 331.

General Smuts's original proposal, at the Paris Peace Conference referring to the League as the "heir of the defunct empires" is reiterated by various writers. Red-Slob concludes that the Allied Powers transferred ultimate sovereignty to the League of Nations giving direct power to the mandatories.

Shucking and Wehberg refer to the phrase "mandates on behalf of the League of Nations" in Article 22 as a basis to their theory of Sovereignty of the League.¹

According to Launterpacht the limitations on the mandatory show that it is not sovereign. Hence the League is sovereign.²

Had this theory been the accepted theory, the Permanent Mandates Commission would exercise a very wide role. Some writers, Lindley and Cobett, however, believe that the territories were directly transferred from the Principal Powers to the mandatories. Thus the League of Nations had no claim to sovereignty.³ Others opposing the theory of sovereignty of the League emphasize the elimination of the clauses dealing with sovereignty of the League during the drafting of Article 22. Some, such as Fowrchille, Stoyanovsky, Margalith, Lansing, question the capability of the League to possess sovereignty of territory.

They stress that the League of Nations is not a super-state and therefore is incapable of possessing sovereignty.⁴

¹Ibid, p. 332

²Wright, Op. Cit., p. 333

³Ibid., p. 334.

⁴Stoyanovsky, Op. Cit., p. 77-78; Also see Mangalith, Op. Cit., p. 162.

The implication that each theory may have with regard to the role of P.M.C., to be considered if the theories (1) to (4) were placed on a continuum of the Commission's role, stretching from minimum to maximum, the writer would put sovereignty of the Principal Allied and Associated Powers nearest to the minimum pole, since this theory tends to exclude the role of the League of Nations. Near this would be placed the theory of Mandatory sovereignty. Here the Commission would have the role of safe-guarding the terms of the trust. Nearer to the maximum pole would be placed the theory of sovereignty of mandated peoples. Here, the terms of tutelage would necessitate closer supervision and advice by the Permanent Mandates Commission. And nearest to the maximum pole would be the theory of sovereignty of the League.

However, in practice this maximum terminal could not be arrived at since even if the League were sovereign, the unanimity provision in the voting of the Council where the mandatory state was a member, would entail the blocking of any action detrimental to the interests of the mandatory.¹

5. Divided or Joint Sovereignty.

Some jurists like Higgins and Corbett have advocated a theory dividing sovereignty between the League and the

¹This has been studied in Chapter II.

mandatory.

Thus Higgins wrote:

For purposes of international responsibility, the mandatory will doubtless be deemed to be the power from whom redress will be sought, and who will also be able to assert sovereign rights for the protection of the territory in question. This does not of itself carry full sovereignty, which appears to be divided with the League.¹

This theory has been criticized on the ground that it confuses the exercise of sovereignty with sovereignty itself,² and the basis that to place sovereignty in two is to place it nowhere.³

The writer believes that sovereignty is too absolute a principle to be applied to the mandate system. What seems to be more relevant to this study is the practical dimensions of the role of the P.M.C. stretching from a maximum role of a moral mentor to a minimum role of a "yes-man" of the mandatory's policies. In this connection, it is significant that Mr. Hymans, Belgian Representative to the Council, stated:

I shall not enter into a controversy - though this would certainly be very interesting - as to where the sovereignty actually resides. We are face to face with a new institution. Legal erudition will decide as to what extent it can apply to this institution the older juridical notions. In the same

¹Wright, Op.Cit., p. 336.

²Ibid.

³Margalith, Op.Cit., p. 170.

way, whether the League of Nations is responsible in respect of the Mandatory Powers, appears to be a moral rather than a legal question. For there is no legal responsibility except in respect of another person. Now, the responsibility of the League of Nations could only occur in respect of the populations who are under mandatory rule. But it is difficult to see in what way this responsibility would be organized, or what measures could enforce it. Quis custodiet custodes? The responsibility of the League before the public opinion of the civilized world will in point of fact be a moral one.

The practical and positive question appears to me to be the following:

What will be the responsibility of the Mandatory Power before the League of Nations, or in other words, in what direction will the League's right of control be exercised? Is the Council to content itself with ascertaining that the Mandatory Power has remained within the limits of the powers which were conferred upon it, or is it to ascertain also whether the Mandatory Power has made good use of these powers, and whether its administration has conformed to the interests of the native population?

It appears to me that the wider interpretation should be adopted.¹

The writer would draw attention to the fact that Mr. Hymans placed emphasis, in the matter of moral influence of the League over the mandatory power, on the Council rather than on the P.M.C.

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League of Nations, Responsibilities of the League, Op.Cit.
p. 17.

CHAPTER II

THE PERMANENT MANDATES COMMISSION AN INSTITUTIONAL STUDY

A. Organization and Method of Operation Of the Permanent Mandates Commission

The Commission provided for by Article 22 of the Covenant had to be set up. The League Council on December 1st, 1920, approved the Constitution of the Permanent Mandates Commission.

Was the recruitment process and method of operation provided for commensurate with the function assigned to the Commission? Did the institution permit or facilitate the influencing of the policies of the mandatories in the direction of the principles of the mandate? Further, did it provide for future enlargement of the role of the Commission?

1. Membership

Originally, according to its constitution the Commission was to be composed of nine members. An expert appointed by the International Labour Organization was also to attend the meetings of the Commission in "an advisory capacity" whenever questions relating to labour figured on the agenda. Subsequently, the membership was increased. In 1925, a special

¹League of Nations, Responsibilities of the League, Op. Cit., p.34.

²Ibid.

member, Mr. Rappard, was appointed to the Commission. He had just retired from his post as director of the Mandates section of the Secretariat.

In 1927, the number of members was increased to 11 with the appointment of a German member following Germany's admission to the League of Nations.¹ This number was perhaps intended to do away with the disadvantages of committees that are too large or too small. Thus it would perhaps be maintained that the size of the Commission was suitable for its function as an advisory committee that was meant to deal with the many issues of the mandates.

The major criterion for the choice of a member was to be his expertise and not his nationality.² This, coupled with impartiality, would tend to lead the Commission to give wise advice to the Council.³ These provisions were commensurate with the duties of an ideal international body, which is not motivated by the nationalist interests of the mandatories and which upholds international obligations and principles of justice.

A glance at the constitution of the Commission would point to the specific precautions that were taken against the possible partiality of the members.⁴ The aim was to make the

¹Quincy Wright, Op.Cit., p. 141.

²H.R.G. Greaves, The League Committees and World Order (Oxford: Oxford University Press, 1931), p. 175.

³William E. Rappard, International Relations as Viewed from Geneva, (New Haven: Yale University Press, 1925), p.34.

⁴League of Nations, Responsibilities of the League, Op.Cit., p. 34.

members independent of their national governments.

- (a) Members were to be chosen by the Council - an international body - and not by each mandatory.
- (b) They were not to hold any government office simultaneously with their membership on the Commission, (except professors at a State University.)¹
- (c) They were to be paid by the League of Nations an adequate sum for their services.²
- (d) The majority of the members were to be nationals of non-mandatory countries - a guarantee against the possible partiality of nationals of mandatory countries.

But did practice follow the above?

Glancing over the type of people actually chosen over the years, various conclusions may be drawn. As may be seen from Tables 1 and 2, most of the members of the Commission were experts in Colonial affairs, thus presumably able to understand the problems of developing countries and competent to deal with questions relating to the mandated territories. However, the majority of the members, had held government posts before joining the Commission. This according to Wright, gave "each a certain prejudice in favour of his government's policy".³ It is significant to note in this respect that all members from mandatory countries had held such posts. Of the non-mandatory Powers, four members out of this team had not held any government

¹ League of Nations, Secretariat, The League of Nations and Mandates, (Geneva: 1924), p. 26.

² One hundred gold francs per day during their meetings plus travelling expenses. Later it was fixed at 2,000 gold francs per year provided they sat over thirty days. Wright, Op. Cit., p. 143.

³ Wright, Op. Cit., p. 142

post. Further, as may be seen from Tables 3 and 4, the principle of nationality exercised an influence in the choice of members, since in almost all cases of resignation or death of members, those replacing them were nationals of the same country.¹ Thus, the Mandatory powers who had nationals on the Commission at the beginning continued to do so until the end. The other three mandatory powers, Australia, New Zealand and South Africa, never had their nationals serving on the Commission. There is evidence that suggestions for replacements had come from the colonial or foreign offices of the original nominees.² Although the Secretary General "showed considerable independence in rejecting persons whom he regarded as not suitable for the position", the final appointment depended on the unanimous vote of the Council of the League. This ensured that none of the nationals of the mandatory powers could be chosen in the final analysis without the consent of those very powers, since the latter were re-

¹Except in the case where the Swedish member who was replaced by a Norwegian.

²Greaves, Op.Cit., pp. 177-78. A counter evidence emphasizing the personal nature of appointment is the fact that members were not allowed to be replaced by substitutes, except in one case on a temporary basis for a person of the same nationality. League of Nations, Permanent Mandates Commission, Minutes of the Thirty-Sixth Session, (Geneva; 1939), p. 8. (Hereafter the Minutes of the Permanent Mandates Commission have been referred to as "P.M.C. Minutes" and the number of session to which the Minutes refer have been indicated by Roman letters).

presented on the Council.¹ Moreover, national considerations may perhaps have entered in the internal organization of the Commission. Hall seems to attribute the long chairmanship of Marquis Theodoli to the fact that the powers wanted to appease Italy since she had been granted no mandate.²

The members of the Commission resigned whenever they envisaged the holding of government posts. But on a number of occasions, they represented their governments at the League Assembly.³ The majority of the members of the Commission were nationals of non-mandatory countries. But the majority of these latter powers were colonial powers.

The Term of Office of the members was for an indefinite period of time.⁴ Thus the members had the opportunity of becoming well acquainted with the problems of the mandated territories. This would afford continuity to the work of the Commission, smoothness of functioning, saving of time and perhaps the development of an esprit de corps. A look on Tables 3

¹Farid M. Zieneddin, Le Regime du Controle des Mandats de la Societe des Nations, (Paris: Presses Universitaires de France, n.d.), p. 150. Belgium, one of the mandatory powers represented on the Commission, was a member of the Council at the time of the nomination of her national. Subsequently she ceased to be a member of the Council but her national held office throughout the life span of the Commission.

²Hall., Op.Cit., p. 183.

³Ibid., p. 180.

⁴League of Nations, The League of Nations and Mandates, Op.Cit., p.26.

and 4 shows that the key members of the Commission had long tenure of office.

This sense of security in their tenure of office would also work in two contradictory ways. It could increase the impartiality of the members since they would not be sent back to their governments after a short period of time or else it would lead the members to overlook their responsibilities.

The following tables give an idea about the occupational background, nationality and length of tenure of the members of the P.M.C.

TABLE 1

TWENTY-SIX PERSONS SAT AT VARIOUS TIMES ON THE COMMISSION DURING ITS LIFE TIME. THE WALKS OF LIFE THEY CAME FROM IS DEPICTED IN THE FOLLOWING TABLE¹

Occupational Background of P. M. C. Member	Number of Members	
	Mandatory	Non-Mandatory
Colonial Administrators	7	3
Colonial Under-Secretaries	1	1
Colonial Experts (Specific information not available)		2
Secretary General of the House of Peers	1	
Diplomatic Corps		
Ambassador		1
Minister	1	
Secretary General of Ministry of Foreign Affairs	1	
Consular Corps	1	
Secretary at Various Conferences	1	
Professors and Educators		4
Doctor in Law		1
	13	13

N.B:

One of the Colonial Administrators of non-Mandatory Powers, M. Friere D'Andrade (Portuguese) had also been a minister of Foreign Affairs.

One of the Professors, Mr. Leopold Palacios, had also previously served in the diplomatic service.

¹The information about the occupational background of the members has been obtained from Stephen, L., and Lees S (eds.), The Dictionary of National Biography (London: Oxford University Press).

TABLE 2

The following members had occupied prominent positions in the colonial administration of their countries.

<u>Name</u>	<u>Nationality</u>	<u>Position</u>
Van Rees	Dutch	Governor-General of Netherlands Indies
Roume	French	Honorary Governor-General of the Colonies
Merlin	French	Governor-General of French Indo-China
Friere D'Andrade	Portuguese	Governor-General of Mozambique
J.B.P. Beav	French	Governor-General of French Indo-China
Lord Lugard	British	Governor-General of Nigeria
Lord Halley	British	Governor of United Provinces, India.
Manceron	French	Resident-General at Tunis

Tables 3 and 4 provide a closer look at the individual members of the P.M.C. - whether from mandatory or non-mandatory countries - and the length of tenure of office of each.

TABLE 3
MEMBERS FROM MANDATORY
COUNTRIES

Name of Member	Nationality	Time on P.M.C.	Reason of Withdrawal
1. M.W.G. Ormsby-Gore	British	1921-23	<u>Resigned</u> . Joined British Cabinet.
Lord Lugard	British	1923-36	<u>Resigned</u> . Retired
Lord Hailey	British	1936-39	<u>Resigned</u> . No reason given.
Lord Hankey	British	May 1939- Sept.1939	<u>Resigned</u> . Joined British Cabinet.
Lord Hailey		Dec.1939--	
2. M.J.B.P. Beau	French	1921-26	<u>Died</u> .
Mr. Roume	French	Feb. 1926	(Took Mr. Beau's place for 8th session on a temporary basis)
Mr. Martral Merlan	French	1926-35	<u>Died</u>
Mr. Manceron	French	1935-37	<u>Died</u>
Mr. Giraud		1937-	
3. Mr. Kunion Yanagita	Japanese	1921-24	<u>Resigned</u> . No reason given.
Mr. H. Chiyuki Yamanaka	Japanese	1924-28	<u>Resigned</u> . No reason given.
Mr. Nobumichi Sakenobe	Japanese	1928-38	<u>Resigned</u> . Japanese Government decided upon this. Japan ceased to be a member of the League in 1935, without relinquishing her mandate.
4. Mr. Piere Orts	Belgium		
	(Vice-Chairman)	1921-35	
	(Chairman)	May 1937	

TABLE 4

MEMBERS FROM NON-MANDATORY COUNTRIES

Name of Member	Nationality	Position on P.M.C.	Time on P.M.C.	Reason of Withdrawal
1. Marquis Theodoli	Italian	Chairman	1921-37	<u>Resigned</u> in protest against the inclusion of mandatory territories in the countries which were to apply sanctions against Italy. <u>Died</u>
2. M.D. F.W. Van Rees	Dutch	Vice-Chairman	1921-34	<u>Died</u>
Baron Von Asbeck	Dutch		1935---	
3. M. Ramon Pina	Spanish		1921-22	<u>Resigned</u> reason not specified ("owing to his many other duties")
Leopoldo Palacio	Spanish		1924---	
4. Freire D'Andrade	Portuguese		1921-29	Ill, <u>died</u> soon after.
Count de Penha Garcia	Portuguese		1929-49	<u>Died.</u>
5. Mme Anna Bugg-Wicksell	Swedish		1921-28	<u>Died</u>
Mlle Valentine Dannevig	Norwegian		1928---	
6. Dr. Ludwig Kastl	German		1927-30	<u>Resigned.</u> Reason not specified ("owing to his numerous other duties")
Dr. Ruppel	German		1930-33	<u>Resigned</u> Following Germany withdrawal from League
7. William Rappard	Swiss	Vice-Chairman from May 1937	1925---	

2. Method of Operation.

This was determined generally by the constitution of the Commission and more specifically by its rules of procedure discussed below. The latter, drawn up by the Commission, itself, were passed by the Council in January 1922. Later, amendments proposed by the Commission in 1923 were also passed by the Council.¹

a) Consideration of Annual Reports of the Mandatory → Direct Contact with Mandatory:

The annual report of the Mandatory and its consideration in the Commission was to be the "only official link between the Mandatories and the League, in whose name they exercised their powers..."²

The annual reports were to be submitted in some cases by May 20th and in others by September 1st of each year, in order to be on time for the Commission sessions of June and October respectively. The advantage of the former time was that it allowed subsequent consideration of the reports by the Council in time to be forwarded to the September Assembly.

However, there was a drawback to the system. Since the reports were usually presented six to ten months after the end of the year to which they referred, the mandatory would have already taken action by the time the Commission discussed

¹Wright, Op.Cit., p. 143.

²P.M.C., Minutes, I, p. 6.

the issues. An action once undertaken carries its own momentum and may not be easily undone. Thus this procedure would seem to limit the effective action of the Commission in influencing the policies of the mandatories through the Council.

It is true that there was a provision for extraordinary session in case of emergencies (Rule 1)¹. But it appears that it would take the Commission at least a month to convene. And one month is still quite a long time.

The Commission drew up questionnaires for A, B, C mandates respectively. To facilitate the drawing up and consideration of reports the Commission suggested that each mandatory follow the order of the questionnaire pertaining to the particular class of mandated territory it was administering. In the A mandates it further asked for submission of "... copies of all laws and regulations promulgated or issued during the year..."². The more complete the information the mandatory powers had to give, the more they were bound to explain their actions and give the relevant details and hence perhaps the greater the opportunity for the Commission to live up to its function. Further, in emergency situations the Commission would ask for special reports. These reports were to be made whenever the Commission asked for them through the Council.

¹Wright, Op.Cit., p. 624. The request for this session had to come from one of the members of the Commission and had to be approved by the majority of the members of the Commission and the President of the Council.

²Ibid., pp. 161-62.

After the reports had been received and each member of the Commission had a chance to read them carefully, came the stage of oral questioning. Questions were put by the Commission to the accredited representative of the mandatory power whose report was being examined. The Commission asked the mandatories to send as their representative "the administrator on the spot or a leading subordinate"¹, to make for a more responsible exchange of views.

To ensure efficiency on its part the Commission instituted division of labour and specialization among its members according to subjects — applying to both the examination of the reports and the questioning of accredited representatives. However, there was the understanding that the other members were also free to ask questions for according to M. Rappard,^{the} Commission as a whole must take part in the examination.² The above was further strengthened by the provision for reallocation of assignment every three years.³

Could the mandatory hamper the action of the Commission by not sending its representative to a particular session? The Commission tends toward the view that in such a case it still

¹Wright, Op.Cit., p. 166.

²"... I should regret such specialization if it were to interfere with the interest taken by all the members of the Commission in the general administration of all territories under mandate." PMC, Minutes, p. 174.

³Wright, Op.Cit., p. 168-69.

has to go on and fulfill its duty of examining reports in the absence of the representative.¹ Thus the Commission would be independent of the mandatory. However, the advantages of the communication process between the Mandatory and the Commission would be lost in such eventualities.

The oral questioning was a two-way process of influencing. On the one hand, it afforded the chance for the individual members of the Commission to express their views about the administration of the mandatory and on the other hand an opportunity was also provided for the mandatory to defend his stand and provide supplementary information.

b) Consideration of Petitions - Indirect Contact with Indigenous Population.

The Rules of Procedure of the P.M.C. did not specify the meaning of the term "petition". In the first few sessions of the P.M.C., it was given a broad interpretation to include, apart from requests, "memoranda, memorials, and other communications."² They provided for the airing of grievances of the indigenous population and through the information they provided for the formulation of questions by the members of the Commission on annual reports of the mandatory.

The method of reception of petitions was conditioned,

¹Op.Cit., p. 166.

²P.M.C., Minutes, V and VII, pp. 115-16, and pp. 129-30 and 211 respectively.

according to the Rules of Procedure of the Commission by their type as to source. Thus there were two types of petitions. Petitions emanating from inhabitants of mandated territories were only received by the Commission if they were submitted through the mandatory. The latter was requested to append comments before sending them to the Commission. However, petitions emanating from outside the mandated territory escaped the scrutiny of the mandatory. These were to be sent directly to the chairman of the Commission. In this case the mandatories were requested to make comments within a period of six months.¹

In view of the fact that most of the petitions considered were from mandated territories, and of the importance of communication between the mandated peoples and the League of Nations, their protector, it could perhaps be wondered whether the system of appeal through the mandatory — against whom the complaints were usually addressed — was conducive to the satisfactory performance of functions by the Commission. Would the mandated peoples especially in times of crises (insurrection, etc.) dare to submit petitions through this channel?² Would the mandatory faithfully submit all the petitions it received? According to M. Van Rees, member of the P.M.C., it was under obligation to

¹Ziennedine, Op.Cit., pp. 203, and 181

²This question will be tested in Chapters following.

communicate them to the Commission.¹ In some cases (though not in Palestine), however, the petitions were not forwarded by the Mandatory.² The fact that the petitioners could draw the attention of the Secretariat and the Commission to such cases alleviates the disadvantages of the above method. But even if the matter was brought to the attention of the Commission, the latter could not deal with them unless they were submitted to it through the mandatory. Could the Commission extract the petitions concerned from the mandatories? The minutes of the Commission show at least one specific case where the mandatory powers produced the petitions when the matter was brought to their attention, by the Commission. It may perhaps be wondered whether there were cases that were never uncovered.

After the reception of the petitions came the sifting stage. Petitions (whether emanating from Mandated Territories or outside) which questioned particular clauses of the mandate were not to be examined. Also anonymous and repetitious petitions were to be refused.³ Further, there was the understanding that the chairman had the discretion to refuse a petition on grounds of violent or indecent language.⁴ Petitions dealing

¹D.F.W. Van Rees, Les Mandats Internationaux: Le Controle Internationale de l'Administration Mandataire, (Paris: Rousseau & Co., 1927), p. 8.

²P.M.C. Minutes, XII, and XI, pp. 62-63, and p. 163 respectively.

³P.M.C. Minutes XIII, p. 216. This petition did not concern the Palestine Mandate.

⁴P.M.C., Minutes VII, pp. 219.20

with ordinary civil rights for which the local courts could give a remedy were not to be considered, except in cases where the law was misinterpreted or was in conflict with the mandat^e instrument. (The Commission tended to avoid giving itself the character of a court of appeal.)¹

The discarded petitions were returned to the petitioner with the reasons for its rejection.² The remaining petitions were considered by the Commission. Often, however, the data provided was inadequate. Suggestions by the Commission for on-spot visits and oral hearing of petitioners were rejected by the Council.³ But the members of the Commission agreed that each one of them individually might hear petitioner in a private capacity outside Commission meetings provided no official use was made of the information received.⁴

All this tended really to limit the function of the Commission. As for the procedure for the consideration of petitions, this was as follows: The petition was first discussed in the presence of the accredited representative of the mandatory. This like the oral questioning on annual reports was a two-way device of influence. Then a rapporteur drew up a

¹Ziennedin, Op.Cit., p. 204.

²Wright, Op.Cit., p. 171.

³This is to be discussed more fully in Part II.

⁴Wright, Op.Cit., pp. 172-76.

report to be discussed by the Commission.¹

Sometimes, due to the heavy work entailed, a sub-committee of two or three members was appointed to study the petition.²

c) Drawing Up, and Communication of, Its Observations to the Council:

In a series of meetings where the accredited representative was not present, the Commission discussed the annual reports and petitions. Then it drew up its observations. Decisions were taken on the basis of a majority of those present - 6 members constituting a quorum.³ In cases of a tie the chairman had a casting vote.⁴

The observations carried the collective responsibility of the Commission. However, at the request of the minority, their views could be submitted to the Council too but the Commission had no collective responsibility for them.⁵ General questions, observations concerning certain territories under A, B, and C Mandates (in each case being divided into general and Special Observations), and observations on petitions (according to countries)

¹ Ibid., p. 172.

² P.M.C. Minutes, XIII, p. 16.

³ The Commission took no precaution against the case where the majority of those present would be mandatory. This would neutralise the non-mandatory majority provision provided for in membership.

⁴ Wright, Op.Cit., p. 624. This coupled with his right of convening the Commission, approving its Agenda, and directing the work at the meetings to ensure observance of the Rules of Procedure gave him considerable power.

⁵ Hall, Op.Cit., p. 195.

were the three forms that the observations usually took.

Before communicating its advice to the Council the Commission forwarded its observations to the Mandatory who could add its remarks.¹ To the Council would then be sent the annual reports of the Mandatory powers, the texts of petitions, the minutes and observations of the Commission, and the observations of the accredited representatives.

B. Intra - League Institutional Relations

1. Permanent Mandates Commission and the Council

The Council had a great influence over the P. M. C.'s membership method of operation and the effectiveness of the Commission's observations on the mandatory. The Council in practice appointed the members of the Commission² and approved any changes in its membership.³ It was the Council which passed the Constitution of the Commission on December 1st, 1920. Although the regulation of the rules of procedure was left to the Commission, the final acceptance of the Council was needed. In the case of amendments, too, the approval of the Council was necessary upon the introduction of the request by 5 members of the Commission.⁴ Thus any possible increase of

p. 34. ¹ League of Nations, Responsibilities of League, Op.Cit.,
Cit., p. 626. ² *Wright, op. cit.* League of Nations, Responsibilities of the League, Op.
³ *Ibid.* Wright, Op.Cit., p. 141.
⁴ Ibid., p. 626.

the P.M.C.'s powers was subject to the control of the Council.

Although suggestions for holding of extraordinary sessions had to come from the majority of the members of P.M.C., the acquiescence of the President of the Council was necessary. The Commission however was accorded certain liberties - for example, the decision not to consider petitions because of their substance.

The Commission did not make direct recommendations to the Mandatory¹, nor did it have direct contact with the petitioners. All its actions were through the Council whose adviser it was.² The Council was not bound to abide by the advice of the Commission, although it would perhaps be influenced by its recommendations. Hence in gauging the influence of the Commission on the mandatory special attention must be paid to the way the Council passed the observations of the P.M.C.

The Chairman or Vice-Chairman of the Commission usually took part in the discussion of the Commission's report at the Council meetings.³ Thus there was a direct communication line

¹P.M.C. Minutes I, p.5. "He (Mr. Rappard) stated that when there were important communications to be made, it was the duty of the Council, which assumed the responsibility, to make them, and not of the Commission whose role was only an advisory one". However, in the oral questioning it could let the accredited representative know its views in general.

²League of Nations, League of Nations and Mandates, Op. Cit., p. 36.

³Hall, Op.Cit., p. 174. From 1938 onward, with the change of rules of the Council, the chairman attended only when called upon by a rapporteur of the Council for a special reason. P.M.C. Minutes, XXXIV, p. 192.

between the Commission and the Council at this time. This would perhaps help to further the adoption, of the recommendations of the Commission and hence the chances of influencing the policy of the mandatories. But the key factor was the voting procedure of the Council. According to Article 5 of the Covenant substantive questions required a unanimous vote in order to be passed. Since Mandate questions tended to be viewed as substantive,¹ the Mandatory powers represented on the Council could be an obstacle to the adoption of any recommendation of the Commission which was unfavourable to themselves. However, a wider application of Article 15, which excludes the vote of interested parties from being counted in the unanimity in the case of disputes, would make possible the non-counting of the vote of the mandatory.²

If the mandatory failed to abide by the recommendations of the Commission as approved by the Council, could the latter revoke its mandate and transfer the duties of the mandatory to another power? If so, the role of the Permanent Mandates Commission would be expanded.

During the peace negotiations, General Smuts' original draft provided for revocation.³ However, in the final drafting

¹Hall, Op.Cit., p. 175.

²In the case of the Palestine Mandate, this did not happen.

³J.M.N. Jefferies, Palestine: The Reality (London: Longmans Green & Co., Ltd., 1939), p. 504.

of Article 22, no specific mention was made of the League's power of revocation. Hence various jurists have expressed different views on the question.

For some jurists, since the Principal Allied and Associated Powers and not the League of Nations chose the mandatories, the ultimate decision concerning revocation belonged again to these Powers rather than to the League.¹ They supported their arguments by pointing out the absence of any provision for revocation of mandates in Article 22. Further, they believed that in practice revocation was hardly possible since the Council would have to pass such a resolution with a unanimous vote.² But supposing that it did pass the resolution, conceded the theorists, the Council would not be able to enforce its decisions since it had no physical means of enforcement. Further, they emphasized the point that were the Council to advise such a measure against the mandatory it would endanger the very existence of the League.³

Margalith believed that a transfer of power from one mandatory to another by the Council could occur only if there was an agreement between the Mandatory and the Council, and if

¹ Charles Alphonse Boutant, Les Mandats Internationaux (Paris: Sirey, 1936), p. 26.

² Margalith, Op.Cit., p. 162.

³ Ibid., p. 199.

the League Assembly and the United States assented.¹

Wright allowed revocation in one case - when the mandate was continually violated.² According to Articles 13 and 14 of the Covenant and the compromisory article in each mandate the matter was to be referred to the Permanent Court of International Justice before any action would be taken. The second step was to be a decision of the Court as to whether the mandatory had violated the terms of the mandate. If it were to find the mandatory guilty and if its decision were not adhered to subsequently, then by reference to Article 13 the Council would be able to transfer the mandate.³ This should, however, be qualified by the unanimity provision of the Council. According to Wright, since the case would involve a dispute, the Mandatory would be excluded from voting (Article 15).⁴ It is highly unlikely that the other members of the Council, some of them mandatories themselves, would be able to reach a unanimous decision on revocation.

2. The Permanent Mandates Commission and the Assembly.

In the Covenant of the League of Nations no mention was made of intervention of the Assembly in Mandate questions. How-

¹Op.Cit., p. 200.

²Wright, Op.Cit., p. 337.

³Ibid., pp. 521-22.

⁴Ibid.

ever, the First Assembly adopted two working rules: (1) that as part of its general competence¹, the Assembly had the right to discuss mandates; (2) that "neither body (i.e., neither the Assembly nor the Council) has jurisdiction to render a decision in a matter which has been expressly committed to the other organ of the League". In this way, the Assembly could discuss and make suggestions. However, it could not take decisions.² Thus it could act in the matter of control only through the intermediary of the Council.³

The Assembly was regularly notified of the report of the Mandates Commission to the Council and of the discussions in the Council. At every regular session, the Assembly considered mandate questions. It had the opportunity to hear the chairman (or Vice-Chairman) of the Commission who was usually present.⁴ Frequently, while discussing the Secretary General's report a considerable debate on the above subject resulted.⁵

The Assembly had the control of financial matters in the League. It could pass resolutions for appropriations for the various Commissions. Hence this would provide an influence over the Commission.

¹Article 3, Para. 3, of the Covenant states "The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the World".

²Hall, Op.Cit., p. 170.

³Zienneddine, Op.Cit., p. 13.

⁴Wright, Op.Cit., p. 135.

⁵Ibid., p. 133.

The Assembly could with a two-thirds majority admit a new member to the League of Nations. One may perhaps wonder whether she could use this in deciding the maturity of a mandated territory and hence bring about the termination of the mandate indirectly¹ and thus over-ride the decision of the Council and the Permanent Mandates Commission, or in cases where the latter two bodies might have been in disagreement support one against the other.

Further, the Assembly could, together with the Secretariat, provide a link between the Permanent Mandates Commission and world public opinion.²

3. The Permanent Mandates Commission and the Secretariat.

The Mandates Section of the Secretariat had close links with the Commission. It provided a communication line within the Commission between the members, and outside the Commission between the latter and the other League Organs, the Mandatory powers, the Mandated peoples and the world at large.

Within the Commission it prepared for the meetings. Thus it prepared the agenda for each ordinary session, which was submitted to the chairman of the Commission for approval. It communicated to the members the date of the convening of the Commission. Further it received requests for extra-ordinary

¹Zieneddine, Op.Cit., pp. 117-18.

²Ibid., p. 115.

sessions and submitted them to the other members.¹ It provided also for the Commission's Secretarial work, such as the drawing up of the minutes, shorthand services, typing, correspondence, translation (from English to French and vice-versa), preparation of summaries.² Outside the Commission, it provided a link between the Assembly and the Commission. An Assembly resolution on September 25, 1929, provided for this.

The Assembly requests the Council to authorize the Secretary-General to communicate the reports of Advisory Committees to all the members of the League at the same time as they are communicated to the members of the Council, except in cases where the committee concerned is opposed to such a course.³

Further, as noted before, it was usually during the report of the Secretary General to the Assembly that the debates on mandates took place.

From the Mandatory Powers the Secretariat received annual reports, observations of mandatories and petitions and submitted them to the Commission. In certain cases it could even check on the submission of petitions by the mandatories.⁴ It submitted the observations of the Commission, after they had been approved by the Council to the Mandatories.

¹Wright, Op.Cit., pp. 624-25.

²Ibid., pp. 625-26.

³P.M.C., Minutes XXX, p. 119.

⁴Ibid., XII, 62-63. It could check in cases where the petitioners drew its attention to the matter. See Supra, p.37.

The Mandates Section of the Secretariat also linked the Commission to the world at large. It gathered materials printed about mandates from government documents, the press periodicals, reports of travelers, etc. Further it kept the world at large informed of the work of the Commission by the publication of reports and minute of the Commission and its replies to the petitioners.

The following conclusions could be arrived at from the above institutional survey. The greater the expertise and impartiality of the members, the more complete the information the Commission would extract from the mandatory, from the petitioners, the more presumably it could live up to its function.

As seen, the Council controlled, to a very large extent, the role of the Commission.¹ But the Council was governed in the majority of cases, concerning mandates by the unanimity provision. Hence it could be controlled by the Mandatory Powers who were represented there.² Therefore, an enlarged role of the Commission would, in the last analysis, tend to depend upon the Mandatory powers themselves. It could be maintained that there was very little chance that the Commission's powers of

¹Through its controls over the membership, method of operation and amendments of the constitution of the P.M.C.

²Except Belgium, which was not a member of the Council throughout the P.M.C.'s life span, and the British Dominions.

control would increase, i.e. its role would move up toward the maximum point of the moral influence continuum discussed in Chapter I.

The role of the Assembly in control over the financial matters could perhaps alleviate the above. But requests for increase of appropriations for the Commission had to be presented through the Council. The Assembly's power of admission of new members could, conceivably also play a role in increasing the independence of the Commission from the Council - but this was very doubtful. The role of the Secretariat in publishing the minutes of the Commission and hence linking the Commission to the world at large would perhaps be considered another important factor.

PART II

P.M.C. IN ACTION

THE PALESTINE MANDATE

CHAPTER III

PERMANENT MANDATES COMMISSION'S CONCEPTION OF ITS OWN ROLE IN PALESTINE

The mandate for Palestine was assigned to Great Britain by the Supreme Council of the Peace Conference at San Remo on April 25, 1920. On July 1st of the same year British military regime, which had been established in Palestine during the First World War was replaced by a civil administration with Sir Herbert Samuel as High Commissioner. The Mandate Instrument for Palestine was drawn up by the mandatory power — influenced by Zionist pressure¹ — and was approved by the Council of the League on July 24, 1922. The Mandate came officially into force on September 29, 1923.² And in 1924, at its Fifth Session, the P.M.C. considered the annual report of the Mandatory for the first time.

In order to ascertain the role that the P.M.C. played in this Mandate, it may be pertinent to see first the conception the Commission had of its own role. This will be considered under three heads: the Commission's terms of reference for

¹Jeffries, op. cit., pp. 521-43.

²Government of Palestine, J.V.W. Shaw, Chief Secretary, A Survey of Palestine (Palestine: The Government Printer, 1946), pp. 17-22.

judging Britain's "observance of the mandate", the observations it made to the Council on British administration, and its method of operation.

A. P.M.C.'s Terms of Reference for Judging
"Observance of the Mandate by the
Mandatory in Palestine

The Palestine Mandate Instrument compared to others was unique. This uniqueness was brought about by the incorporation of the Balfour Declaration of 1917 into the text of the mandate. Thus the Preamble of the Palestine Mandate stated¹

Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine of a National Home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country. (Underlines by the writer).

Several of the Articles of the Mandate reflected the above statement. Article 2 stated:²

The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish National Home, as laid down in the preamble, and the development of self-governing

¹ League of Nations, Secretariat, Mandate for Palestine (Geneva: 1922).

² Ibid.

institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.¹

Article 6 stated:²

The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including state lands and waste lands not required for public purposes.

Articles 15 (religious exercise), 22 (official languages), and 23 (Holy days) also tended to reflect the effect of the incorporation of the Balfour Declaration into the text of the mandate.

But the Palestine Mandate also urged "... giving effect to the provisions of Article 22 of the Covenant of the League of Nations...."³

A glance at Article 22, the other mandate instruments and the above cited articles of the Palestine Mandate shows a wide discrepancy between the former two and the latter. Whereas Article 22 and the other mandate instruments dealt with the relationship of two protagonists — the existing population

¹Ibid.

²Ibid.

³Ibid.

in the mandated territory and the mandatory.— The Palestine Mandate dealt with three protagonists — the existing population (the Arabs), a new population to be introduced in time (the Jews) and the British mandatory. Thus whereas Article 22 urged the "well-being and development" of the existing indigenous population toward eventual self-government and independence, the Palestine Mandate introduced a further obligation — the creation of a Jewish National Home. But the key factor causing the discrepancy between Article 22 and the Palestine Mandate was the opposition of the great majority of the existing indigenous population, the Arabs, to the creation of this Jewish National Home which they considered to be detrimental to their "well being".

Was the P.M.C. to consider Article 22 or the Palestine Mandate Instrument its primary term of reference in examining the annual reports of the mandatory?

In its observations following the Fifth Session in 1924, the P.M.C. placed emphasis on the Mandate Instrument and accepted it as its primary term of reference.

It is not in any way for the Commission, whose duty it is according to Article 22 of the Covenant 'to advise the Council on all matters relating to the observance of the mandate, to offer any observations whatever concerning the actual contents of the mandate the application of which it is called upon to examine, or to contrast the two principles which the Council sought to embody in the terms of the mandate for Palestine.¹

¹P.M.C., Minutes, V, p. 188. The two principles referred to were "the establishment in Palestine of a Jewish National Home and the development of self-governing institutions.

Throughout the period 1924 to 1939, the P.M.C. adhered to the Mandate Instrument although it was faced with the problem of inherent in the Mandate — the reconcilability of the dual pledges entailing the introduction of self-governing institutions on the one hand and the creation of a Jewish National Home on the other. The dilemma was that any self-governing institutions that would be acceptable to the Arabs would have to be on a democratic basis but any Arab majority would block the Jewish National Home project.

Although the P.M.C. recognized these difficulties in the mandate, it tended to adhere to the British point of view of ultimate reconcilability of the dual pledges until 1937. Thus the Commission on several occasions endorsed the British plan of fostering the spirit of cooperation between the Arabs and the Jews through local elective municipal systems.¹ Moreover, a statement by Mr Friere D'Andrade, member of the Commission, may be cited:

What the Commission ought to do was to try to bring the two parties, Arabs and Jews, together... to convince the Arabs of the necessity of accepting the principle of the mandate... [to persuade] the Jews to reach an understanding with the Arab population.²

¹P.M.C., Minutes, V, p. 189; VII, pp.212-13; IX, p. 217; XXI, p. 201.

²Ibid.

Even after disturbances had occurred in Palestine over rights of Arabs and Jews at a religious site, the Wailing Wall, in 1929, the P.M.C., at its Extraordinary Session in 1930, reiterated its belief about ultimate cooperation between the two elements of the population.¹

However, individuals within the Commission tended often to hint at irreconcilability. For example, M. Van Rees, as early as the year 1925 referred to the dual obligations as a "...problem hitherto unsolved and perhaps insoluble."²

In 1937, upon the publication of the Peel Report, and the abandonment of the reconcilability formula by Britain, the P.M.C. did not entirely agree with the Mandatory. It declared that the fact that Britain had announced that the mandate was unworkable had almost made it so. It continued to harbour the belief of ultimate reconcilability. And when it proceeded to discuss the Partition Plan put forward by the Peel Commission, the P.M.C. still relied on the Mandate Instrument in drawing up its observations.³

The same was the case when it considered the White Paper of 1939.⁴

¹Ibid., XVII, p. 145.

²Ibid., VII, p. 127.

³Ibid., XXXII, pp. 227-29.

⁴The Peel Commission Report, the White Paper of 1939, and the reactions of the P.M.C. to them will be discussed in Chapter VII.

B. The P.M.C.'s Observations to the Council

1. Special Observations

The Permanent Mandates Commission in its Special Observations covered topics such as land, immigration, self-government, judicial organisation, economic regime, public security, drugs and spirits, religion, education, labour, public health, public finance, etc. But in this section only the three most controversial issues will be dealt with — self-government, immigration and land.

The Commission's influence from the beginning was of a cautious kind. In fact a study of its formal observations on the above three questions shows that they were worded in such a way as not to offend Britain. Mostly they took the form of commendations, requests and recommendations. Criticisms were rare — mainly at the 1930 session following the Wailing Wall incident. Very often it appears that the Commission preferred "requests for further information" as a substitute for criticism.

a) Self-Government

(1) At the National Level

On this question the Commission as a whole tended to agree on the main lines of British policy in Palestine or to be silent.

When the attempt by Britain to introduce a Legislative

Council¹ in Palestine failed due to Arab boycott of the elections on account of the fact that the proposed Council did not contain a clear majority of Arabs, the Commission in 1924 sympathized with the difficulties encountered by Britain in promoting self-government at the National level. It stated

The Administration could not agree to the admission of a majority [Arab] resolved to oppose the establishment in Palestine of a National Home for the Jewish people and the application of the mandatory system to the country.

The Commission is happy to note that the consequences of this conflict of interests [between Arabs and Jews] are mitigated by the wisdom and impartiality displayed by the High Commission, to whom it wishes to pay tribute. If there is discontent in Palestine — and this cannot be denied — the Commission desires to state expressly that this is in no way attributable to the Representative of the Mandatory Power, who faithfully discharges the twofold duty imposed by the Mandate.²

The Commission as a whole did not put forward suggestions to the Mandatory for coping with the situation. However, an individual, Mr. Palacios, made a proposal. He asked Britain to conduct an intensive propaganda campaign to bring about peace and "the intermingling of the races."³

¹The Legislative Council was to consist of the High Commissioner and 22 members, 10 official and 12 elected, of whom 10 were to be Arabs (8 Moslems and 2 Christians), and 2 Jews. Royal Institute of International Affairs, Great Britain and Palestine (London: Oxford University Press, 1946), p. 41.

²P.M.C., Minutes, V, pp. 188-89.

³Ibid., p. 105.

In its report at the Eleventh Session in 1927, the P.M.C. asked for information about the development of self-government.¹ If the Commission in its report to the Council did not directly urge the establishment of self-governing institutions, individual members did, for example Mr Palacios.²

Following the Wailing Wall incident of 1929, the Commission in its Seventeenth (Extraordinary) Session, in June 1930, sympathized with the Arab demands for self-government, but criticized them for opposing the mandate. It praised the Mandatory regime for endeavouring to give "equal weight" to the dual obligations of the Mandate and placed its trust that Britain would introduce self-governing institutions whenever she considered it to be appropriate. The general observations the P.M.C. forwarded to the Council read

It would be unfair to make it a complaint against the Mandatory that 8 years after the entry into force of the mandate, Palestine has not yet been granted a regime of self-government; and it would be equally unfair to reproach the Mandatory because the Jewish National Home has not yet reached its full development. Those are the objects of the mandatory and it is not one of the mandatory's obligations to bring them to immediate completion. The mandatory's immediate obligation is solely to create to create and maintain in Palestine general conditions favourable to the gradual accomplishment of the two objectives of the mandate.

¹Ibid., XI, p. 201.

²Ibid., p. 117.

The policy of the Mandatory would not be fairly open to criticism unless it aimed at crystallising the Jewish National Home at its present stage of development, or rigidly stabilising the public institutions of Palestine in their present form.¹

When Britain decided to set up a Legislative Council² in 1930, the P.M.C. in her Twentieth Session in 1931, welcomed the proposal.³ Then in 1932 the Commission gave a non-committal observation, and after that did not mention the issue in its reports to the Council. Hence as a collective body, it did not plan to exercise much influence. What were the views of the individual members?

A glance at the minutes shows that the members of the Commission were divided as to the advisability of introducing such a measure at this time. In 1931, Mr Palacios warned against the optimism of Britain,⁴ and in 1932, Mr Orts and Mr Van Rees believed that the process toward self-government should go slower.⁵

.... if a Legislative Council were set up at an inopportune moment, it was certain that, in spite of the efforts of the High Commissioner to create a more favourable atmosphere for the collaboration of the two races concerned, this measure would undoubtedly arouse all the political passions and all the ambitions which at present divided the population of the country.⁶

¹ Ibid., XVII, p. 145.

² The proposed Legislative Council was to be composed of the High Commissioner and 22 members of whom 10 would be official and 12 unofficial. The High Commissioner was to continue to have the powers so as to make sure that the dual obligations under the mandate were carried out. Great Britain, Colonial Office, Report on the Administration of Palestine and Transjordan (London: H.M. Stationery Office, 1930), p. 25.

³ P.M.C., Minutes, XX, p. 231.

⁴ Ibid., XXV, p. 67.

⁵ Ibid., XXII, pp. 198, 200, 86.

⁶ Ibid., p. 86.

Lord Lugard on the other hand pointed out that the slowing down of the development of self-governing institutions and to appear to take no interest would have an unfavourable effect on public opinion.¹

Regarding the Constitution itself, Mr. Van Rees criticized in 1931 the unofficial majority on the ground that a majority not controlling the executive would be a source of friction.²

When the Legislative Council proposal failed to arouse a favourable impression, Mr. Rappard and Lord Lugard of the P.M.C. opposed it too in 1936. Lord Lugard repeated the same criticisms levelled by Mr. Van Rees (in 1931) against the proposed constitution. Further, he considered a majority vote and representation unsuitable to oriental people.³

In 1938 the P.M.C. as a whole acknowledged that the situation was not favourable for the development of self-governing institutions.⁴

2. At The Local Level

The P.M.C. was satisfied with the developments of self-government at the local level and urged Britain to go ahead with the plans she had already undertaken in this direction,⁵ 1924-1927.

¹Ibid., XXII, p. 201.

²Ibid., XX, p. 82.

³Ibid., XXIX, p. 145.

⁴Ibid., XXXIV, p. 228.

⁵Ibid., V, p. 189; VII, pp. 212-13; IX, p. 217, and XI, p. 202.

However, voices asking for a change were also heard. In 1926 and 1927, Mr. Palacios brought to the attention of Britain, the discontent of the Arabs regarding local institutions which were not wholly elective,¹ - thus hinting at the re-organization of 1925 Municipal Franchise Ordinance. But this was suggested by an individual and not by the Commission as a whole.

In 1931, when Britain showed an intention of re-organization of the above ordinance, the Commission urged Britain to go on with her plan and to "confer on them (local institutions) as wide powers as possible."²

In 1934 and 1935, the Commission's role was conceived to be one of toning down British optimum regarding the cooperation of the Arabs and the Jews on municipal councils. The P.M.C. pointed to the sources of tension beneath the calm.³

b) Immigration

1) Economic Absorptive Capacity

At its Fifth Session in 1924, "the Commission adopted the economic absorptive capacity" ceiling to Jewish immigration, as proclaimed by Britain in the 1922 White Paper. It showed doubts as to whether Britain was actually following this policy.⁴

¹Ibid., IX, p. 168; XI, p, 129.

²Ibid., XX, p. 231.

³Ibid., XXVII, p. 226; p. 40; XXV, pp. 21-22.

⁴Ibid., V, p. 189.

However, just before the great influx of Jewish immigrants, at a time when immigration was already showing signs of increase, the P.M.C. observed:

It is glad to note the attention which is being paid by the Administration to the regulation of Jewish immigration so that Palestine will readily be able to absorb the numbers admitted and offer them employment, for which they are suited.¹

A warning was nevertheless issued by an individual member of the P.M.C., the Marquis Theodoli, who was the Chairman of the Commission. He reminded Britain over and over again in the coming years too to observe the economic absorptive capacity formula.² Addressing the British representative at the Ninth Session of the Commission in 1926, he stated that:³

It was essential to a successful solution of the problem that the immigration of Jews into the country should be proportionate to its resources. He had laid emphasis on this point two years ago when Sir Herbert Samuel had come before the Commission. This year also the Commission was obliged to take these factors into account in view of the protests and petitions which were addressed to it. The shortage of houses and the increase in the cost of living were in direct relation to the rate of immigration, which was very high.

During economic depression of the late 1920's the Commission as a whole did not mention the question of immigration in its annual reports to the Council. And when it did refer to it in its 1928 report to the Council, it was non-committal.⁴

¹ Ibid., VII, p. 213.

² Ibid., p. 103; IX, p. 165.

³ Ibid., IX, p. 165.

⁴ Ibid., XIII, p. 125.

In June 1930 at its extraordinary session following the Wailing Wall incident the Commission approved Britain's policy of temporarily slowing down immigration pending the investigations of Sir John Hope-Simpson on immigration, land, settlement and development. The P.M.C. reassured the Jews that the action of the Mandatory was only a temporary one.¹ However some members of the Commission, Messrs. Rappard and Orts, criticized Britain for this policy which they termed to be too attentive to local Arab public opinion and thus liable to encourage future disturbances.²

At the same session, some of the members of the Commission severely criticized past British policy for not been led by the economic absorptive capacity formula. But this criticism was after Britain had taken remedial steps - she had sent the Shaw and John Hope Simpson Commissions to Palestine.³

As Jewish immigration was increasing once again in the early 1930's, some members of the Commission voiced warnings

¹Ibid., XVII, p. 142 and 144.

²Ibid., XVII, pp. 52-54 and 56.

³Following the disturbances of 1929 a Commission of Inquiry, with Sir Walter Shaw as Chairman arrived in Palestine "to enquire into the immediate causes of the recent outbreak and to make recommendations as to the steps necessary to avoid recurrence." The Shaw Commission in its recommendations called upon the mandatory to review the machinery for the regulation and control of Jewish immigration with the object of preventing "a repetition of the excessive immigration 1925 and 1926". The Government of Palestine, Op.Cit. pp24-25.

against a too liberal immigration schedule in view of a possible future slump in the economy (Lord Lugard in 1932) Mr. Rappard in 1933 and 1935.)¹ When immigration continued to increase the Commission in its 1934 report issued a mild criticism to the effect that:

The Commission will be glad to learn by what means the mandatory power proposes to establish a closer relation between the number of new arrivals and the true economic absorptive capacity of the country on the long view.²

In 1937 when the mandatory power decided to reduce immigration temporarily, the P.M.C. considered British Administration competent to do so "as an exceptional and provisional measure."³ However, an individual member, Mr. Orts, the Chairman, pointed out that the action of the mandatory to decrease immigration in anticipation of the partition had been taken before the decision of the League of Nations on the future of Palestine. Thus he believed that if the League in agreement with the mandatory power were to decide the continuation of the mandate, the above immigration measure would be a violation of the mandate (Article 6).⁴

In 1938 the P.M.C. just mentioned that the application of the mandate had been "partially suspended" due to the disorders. Thus it noted that the reduced immigration schedule would continue

¹P.M.C., XXII, p. 98; XXIII, p. 102; XXVII, p. 45.

²Ibid., XXV, p. 149.

³Ibid., XXXII, p. 233.

⁴Ibid., p. 112.

for a longer period.¹ But Mr. Rappard considered this a restriction upon the application of the mandate which laid down an obligation to facilitate immigration. He urged the mandatory to bring the period of uncertainty quickly to an end.² And in 1939 he reiterated his criticism of the policy of the mandatory. He presented the following arguments: the immigration schedule was below the economic absorptive capacity of the country; the economic interests of the country "were clearly prejudiced" by the policy of the mandatory; the measure had not decreased Arab discontent or stopped the rebellion but on the contrary had angered both Arabs and Jews for different reasons.³ Count de Penha Garcia tended to believe that "political aspects of the problem had been allowed to obscure the economic to the detriment of the country,"⁴ whereas Mile Dannevig mentioned that something should be done to remedy the situation whereby Jewish immigrants were sent back upon arrival.⁵

2) Illegal Immigration

After 1933 the question of illegal immigration acquired importance. Britain started to take remedial actions in the same year and in the following year the P.M.C. discussed the

¹Ibid., XXXIV, p. 228.

²Ibid., p. 49. He even went so far as to consider "economic absorptive capacity" a restriction upon the full application of the Mandate.

³Ibid., XXXVI, p. 73..

⁴Ibid., XXXVI, p.74.

⁵Ibid., p. 73.

issue. Individual members of the Commission criticized Britain on several accounts. Lord Lugard inquired why Britain had not taken these steps before 1933, The Marquis Theodoli and Lord Lugard brought to the attention of the mandatory the connivance of British officials in the illegal admission of 22,000 immigrants. Mr Rappard criticized Britain for encouraging illegal immigration by making an allowance for it in the immigration schedules.¹

In 1935 the Commission as a whole wished Britain success in its new measures to check illegal immigration of both Jews and Arabs.² However, the 1936 report to the Council voiced regret at the failure of British measures.³

3. Compilation of Statistics

Here the Commission did have a great influence in urging Britain to adopt a more accurate statistical compilation method. The P.M.C. asked for more accurate statistics on unemployment in its 1931 report to the Council.⁴ Mr Rappard requested Britain to give statistics on the occupation of the immigrants.⁵

¹Ibid., XXV, p. 26. Mr Rappard repeated the same argument in 1935. ²Ibid., XXVII, p. 226.

²Ibid., XXVII, p. 226.

³Ibid., p. 141.

⁴Ibid., XXIX, p. 141.

⁵Ibid., XX, p. 231.

c) Land(1) In Connection with the Development of Jewish National Home(a) Survey of Land

In 1924, Mr. Beau proposed the drawing of a survey of land distribution in order to facilitate "close settlement of Jews on land."¹ Henceforth, the Commission on several occasions urged Britain to proceed faster on this scheme.² However, by 1936, Britain had failed to satisfy this requirement.³ Thus, 1937 report of the P.M.C. urged Britain to complete the land survey in view of the existing circumstances.⁴

(b) Settlement

The Commission appreciated the difficulties that Britain met in the settlement of Jews on state lands. However, in 1930 it severely criticised British policy this field. And Mr Rappard deplored the fact that the government had not taken positive action to promote the Jewish National Home.⁵

In 1931 and 1932, Mr Rappard praised British policy. And in 1934 the Commission as a whole voiced its appreciation of the measures taken.⁶

¹Ibid., VII, p. 213.

²Ibid., IX, p. 217; XIII, p. 51; XVII, p.100; XXIX, p.142.

³Ibid., XXIX, p. 142.

⁴Ibid., XXXII, p. 233.

⁵Ibid., XVII, p. 152.

⁶Ibid., XXV, p. 149.

(2) In Connection with the Protection of the Rights of the Arabs

(a) "Landless" Arabs

This question was not referred to by the Commission in its annual reports, except in its 1935 report where it was non-committal just asking for information.¹

The minutes show that opinion was divided on this issue. Mr Rappard, Lord Lugard, Mr Van Rees did not consider that government interference was necessary either in the case of settlement or in preventing eviction.² Whereas Mr Merlin and Count de Penhas Garcia urged Britain to protect the Arab against further sale of land, and to resettle him.³

On many occasions members of the P.M.C. inquired about British policy in this field.⁴ And in 1937 Lord Hailey criticised the section of the Royal Commission's report as referring to the "landless Arab". He mentioned that "an unduly rigid system had been followed in classifying the landless Arabs."⁵

¹Ibid., XXVII, p. 226.

²Ibid., p. 63, 81; XX, p. 76; XXV, p. 29.

³Ibid., XVII, p. 78, p. 80; XXIX, p. 142.

⁴Ibid., XXXVI, p. 85.

⁵Ibid., XXXII, p. 114.

(b) Agricultural Credits, Co-operative Societies and Development Schemes

In its 1930 Extraordinary Session, the Commission severely Criticised Britain for its failure in this field. It called for positive government action in granting of agricultural credits; setting up cooperative societies, development of agriculture specially of the Arabs, in the face of the organized Jews.¹

2. General Observations

These observations of the P.M.C. dealt with the general existing situation in Palestine. It may be inferred from them that upto the disturbances of late 1920's the attitude of the P.M.C. toward the mandatory tended to be one of subservience to the mandatory rather than independence, that is a role placed nearer to the minimum terminal of the moral influence continuum mentioned in Chapter I. Thus very often the Commission did not act to the limit of its power.

Mr Van Rees would emphasize,.. that the mandates Commission had always shown great prudence in more than once leaving somewhat in the shade the practical effect of certain provisions of the mandate. It had done this, not because it was convinced that this effect was in accord in all respects with the spirit and letter of the mandate, but because it had considered it its duty, in principle and as far as possible to facilitate the execution of the delicate mission which had been entrusted to the mandatory Power.²

¹Ibid., XXIII, p. 190; XXV, p. 149; XXVII, p. 226.

²Ibid., XVII, p. 83.

In this section the General Observations will be studied in terms of the two crisis periods: the disturbances of 1929 and those of 1936-39. It is during such periods that the potentialities of the Commission's role could be manifested.

a) The Disturbances of 1929

At its Extraordinary Session held in 1930, the Commission as a whole rejected the view expressed in the Shaw Report that the outbreak was "unexpected", "unpremeditated", and "not directed against British authorities."¹ To support the latter argument the P.M.C. quoted two Arab petitions.²

It criticised the British Administration for the inadequate armed forces that it had maintained in Palestine at the inception of the uprising. Further it called the attention of the mandatory to the fact that in its Ninth Session in 1926 it had pointed out the danger of excessive reduction of British forces in Palestine.³ Further, it criticised the Administration for not making use of its powers under the Press Law to suspend the publication of seditious articles and for not having an adequate intelligence service.⁴ The P.M.C. also accused the

¹Ibid., p. 140.

²A letter from the Palestine Arab delegation and a telegram from the Executive of the Arabs.

³P.M.C., XVII, p.141.

⁴Ibid.

mandatory of not paying sufficient attention to the economic and social adaptation of the Arab population to the conditions created by Jewish immigration and for not being about a fusion of economic interests between the two sections of the population. It urged Britain to fulfill the above.¹

b) The Disturbances of 1936-39.

At the beginning of the troubles the P.M.C. issued a mild criticism against the mandatory for not adopting "more decisive measures at an earlier stage with a view to putting down the armed resistance."² However, during the disturbances the P.M.C. did not criticise the actions of the mandatory power. Rather it tended to sympathize with it and praise the public security measures it took. Thus in 1939 the P.M.C. observed that the mandatory had acted "efficiently and with a certain measure of success in very difficult circumstances."³ However, criticism came from individual members. For example, Count de Penha Garcia attributed the protraction of the disturbances to "the consistent tendency on the part of the Palestine authorities to underrate the danger of the situation and reluctance to take any positive action until the last month."⁴

¹Ibid., p. 142.

²Ibid., XXXII, p. 232.

³Ibid., XXXVI, p. 276.

⁴Ibid., p. 68.

A positive suggestion made by the P.M.C. during this period was to urge Britain to come to a quick decision as to the future of Palestine. Mr Rappard asked the P.M.C. to assist the mandatory in doing so.¹

c) Method of Operation

1. Oral Hearing of Petitioners

One of the functions of the P.M.C., as seen before, was to examine the annual reports of the mandatory in order to ascertain whether the latter abided by the terms of the mandate or not.² The more independent the Commission were from the mandatory the better it would be able to fulfil the above duty of examination. The more information it received and the more varied the sources of its information, the more would this independence tend to be. Especially in a mandated territory like Palestine where either the Arabs or the Jews were usually opposed to some measure or other of the mandatory administration throughout the period 1923 to 1939, information from the indigenous population would acquire importance, for it would present the other side of the picture.

As far as written information was concerned the P.M.C.

¹Ibid., XXXIV, p. 228.

²See supra, Chapter I.

did not depend entirely on the mandatory for, as seen in Chapter II, it received petitions from the indigenous population of Palestine. However, as far as oral supplementary information was concerned, the procedure of the P.M.C. tended to be one-sided, only the representative of the mandatory power was heard.

(a) Oral Hearing by the Commission as a Whole

In 1925 and 1926, the P.M.C. was faced with the issue whether to grant a hearing to the petitioners or not. A telegram by the Secretary of the Executive Committee of the Palestine Arab Congress had requested the P.M.C. to grant Emir Chekib Arslan, their Pan-Arab representative, an oral hearing.¹ From the Jewish side the Zionist representative at Geneva² and the Vaad Leumi (the National Council of Jews in Palestine)³ had presented similar requests.

Two members of the Commission presented arguments against the idea. Their stand was one of "unconditional no." They based their case on the regard they had for the dignity of the mandatory, on their trust of the latter and on some technical considerations.

Both Mr. Freire D'Andrade and Mr. Merlin were opposed to a procedure which would establish the P.M.C. as a tribunal. Mr Merlin specifically mentioned in this connection that "the P.M.C. was not a law court but a technical organisation

¹P.M.C., VII, p. 33.

²Ibid., p. 34.

³Ibid., IX, p. 34.

instructed by the Council to investigate questions concerning mandates."¹ To place the mandatory on par with the indigenous population would be detrimental to the dignity of the mandatory, they thought. Mr. D'Andrade said that "... he did not think one would very well bring before the Commission a representative of the country concerned [the mandatory] to undergo cross-examination in the presence of persons [the mandated] desiring to be heard...."² Further, in Palestine specially, a critical country, the proposed procedure would be "very dangerous" — harmful to the mandate system itself, according to Mr Merlin. "Such a hearing would enable them [the petitioners] to confront the mandatory Power and would give them in the minds of their fellow countrymen a position which they would not fail to make the greatest use in combating the local authority," he said.³

In any case, Mr Merlin, considered the oral hearing of petitioners "on most occasions useless" since he tended to place a great trust on the mandatory, and to emphasize the spirit of cooperation with the latter.

Also from the technical point of view he considered

¹Ibid., p. 54.

²Ibid., VII, p. 34. Mr Merlin mentioned that "such a procedure would place that Power [the mandatory] in a humiliating position, which it would probably refuse to accept and it would place its representative in a very delicate position. PMC, IX, p. 49.

³
PMC, IX, p. 49.

the hearing of so many petitioners a too heavy burden for the P.M.C. and further the presence of these petitioners, he believed, would be the cause of intrigues during each session of the Commission.¹

Although the Chairman, Marquis Theodoli, in theory presented the view that in any dispute both sides (the mandatory and the mandated) should be able to present their views on the basis of parity, in practice he would not grant the same facilities to both parties for presenting their views. For, according to Mr Theodoli, such a procedure would place the mandatory in a difficult situation.²

The other side of the argument was presented by Mr. Rappard, Mr Van Rees, Mr. Palacios and Mr Orts. They favoured the hearing of the petitioners but they too tended to take into consideration the dignity of the mandatory. For example, Mr Rappard wrote in his report on the telegram from the Executive Committee of the Palestine Arab Congress: "Though the members of the Commission have the most absolute confidence in the goodwill of all the mandatory powers, they are bound at times to feel a certain uneasiness in simply rejecting petitions on the observations of the state against whose action the petitions are

¹Ibid.

²Ibid., p. 47.

directed."¹

However, he went on to write:"The chief desire of the Commission is to do nothing which might add unnecessarily to the heavy burden of the mandatory Powers."²

In fact while taking precautions to safeguard the dignity of the mandatory, Mr Rappard's answer to the petitioners would be a "conditional yes". The hearing of the petitioners would be admitted if either of the following conditions prevailed:

- (1) if the Commission were unable to find adequate information to form an opinion;
- (2) if the petitioners after receiving the conclusion of the P.M.C. came back to the charge through the same channel as before.³

Once it was decided that the petitioner would be heard, the date for his audition would be set to be a year after the submission of the petition. This would serve a double purpose -- to provide the mandatory ample time to reply to the petition and to provide a cooling off period.⁴ Further, upon the set date the petitioners would not be heard unless the mandatory power was asked to be present. It could refuse to do so if it wanted to do so.⁵

¹Ibid., p. 192.

²Ibid., p. 193.

³Ibid., p.193.

⁴Ibid., p. 50.

⁵Ibid., p. 193.

Mr Van Rees, Mr Orts and Mr Palacios tended to agree with Mr Rappard, although the first two did not hide the uneasiness they felt about the new procedure.¹

The final conclusion arrived at by the Commission was to the effect that "experience having shown that sometimes the Commission has been unable to form a definite opinion as to whether certain petitions are well-founded or not, the Commission is of opinion that in these cases it might appear indispensable to allow the petitioners to be heard by it."²

Glancing at the wording of the above observation to the Council, it may be noted that the Commission placed doubt on the petitioners rather than in the mandatory — again trying to safeguard the dignity of the latter. Clear too is that it did not give equal weight to both sides.³ However, it is significant to note that the P.M.C. was inclined to enlarge its role of examination in the Palestine mandate. This effort would, in fact, move the role of the Commission nearer to the maximum terminal of the moral influence continuum. Upon the refusal of the Council of the oral hearing of petitioners by the P.M.C., the Commission did not hear petitioners from Palestine.

¹Ibid., p. 50.

²Ibid., p. 216.

³The mandatory power during the discussion of petitions could give her opinion through her accredited representative but not all petitioners would be granted audience.

(b) Oral Hearing by Individual Members of the Commission

In 1925, the Chairman asked the Commission whether in his official capacity he should listen to the great number of religious chiefs who represented communities in Palestine and who came very often to Rome and asked him to hear them.¹ The Commission conferred upon him the power of granting private audiences to petitioners.²

It was the view of Mr Rappard that prevailed here. According to him, the Chairman would hear only those persons who inspired him of a "sufficient degree of confidence."³ But Mr Rappard was inclined to rule out the making of any official use of the information thus obtained.⁴

It should be mentioned in this respect that although Mr Friere D'Andrade did not favour oral hearing by the Commission as a whole he tended to favour hearing by the Chairman alone. He pointed out that the Chairman kept in touch with the mandatory powers and needed to be very completely informed in order to direct the work of the Commission. However, unlike Mr Rappard, he gave the chairman the power of audition in the case of "any

¹P.M.C., Minutes, VII, p. 33.

²Ibid., 35.

³Ibid., p. 34.

⁴Ibid.

person" asking to be heard and to allow the Chairman to make "any use that he saw fit" of the information he thus obtained.¹

Whether this right could be extended to the other members of the P.M.C. was also discussed by the Commission in 1925 and 1926. Mr Rappard favoured such an extension but subject to the same limitations as in the case of the Chairman. He said in this connection that

The Commission would be going too far and indeed would be making itself somewhat ridiculous if it decided that the only people in the world whom its members must take care not to meet were people who could give them first hand information as to the position in mandated territories.²

Lord Lugard, however, tended to oppose the above view. He maintained in this connection that the granting of private audiences by individual members of the P.M.C. would give the mandatory the impression that the Commission was acting without its knowledge.³

The hearing of petitioners privately by the Chairman or other members of the P.M.C. in so far as it did influence the mental frame of the members of the Commission would push the role of the P.M.C. toward independence from the mandatory power. But this private audition could have

¹Ibid.

²P.M.C., Minutes, IX, p. 54.

³Ibid.

an adverse effect on the impartiality of the members of the P.M.C. if one part of the indigenous population exercised heavier pressure on them than the other.

Weizmann, President of the Zionist Organization, mentioned that the Zionists were very active in trying to influence the members of the Commission. The Zionists maintained an office at Geneva and between the sessions of the P.M.C. kept in constant contact with the members, even to the extent of visiting them in their respective countries.¹ Weizmann referred in particular to his connections with Messrs Rappard and Orts and Lord Lugard. In his book, Trial and Error, he wrote about Professor Rappard that he was "a helpful guide to us [Zionists], and to me in particular in the inner workings of the League, an intricate labyrinth leading to many dark domains in European and world politics."² Referring to Mr Orts he stated: "In him too we found a sympathetic appreciation of our efforts and a deep understanding of the bearing of the Jewish problem on the National Home."³ Lord Lugard, according to Weizmann "felt deeply with the Jewish plight, and I always knew that he would put the Jewish case in the best possible light, though he would not say a word about it to me."⁴

¹Chaim Weizmann, Trial and Error (New York: Harper, 1949), pp. 326 and 371.

²Ibid., p. 376.

³Ibid.

⁴Ibid., p. 377.

The Arabs maintained close contacts with the Chairman, Marquis Theodoli.¹

The Minutes of the P.M.C. show that on various occasions Messrs Orts, Rappard, Van Rees and Lord Lugard had a pro-Jewish attitude.² However, on other occasions, their stand appears to be impartial.³

Mr Merlin, Mr Palacios and Count de Penha Garcia at times manifested pro-Arab leanings.⁴

Weizmann's criticism of Marquis Theodoli as being anti-Zionist should be reviewed. In the question of immigration the Marquis stressed more than any other member the necessity of following "economic absorptive capacity" formula. But his apprehension proved to be justified in terms of the depression of 1926. Therefore it could be inferred that his attitude was impartial.

¹Ibid., p. 371.

²As seen earlier in this Chapter, Mr Van Rees was opposed to the Legislative Council proposal of 1932; Messrs Orts and Rappard were opposed to the temporary slowing down of immigration in 1930 as being a measure too attentive to Arab opinion; Mr Rappard in 1930 urged the Mandatory to take a more active role in the development of the Jewish National Home. Messrs Rappard and Van Rees and Lord Lugard told the Mandatory not to interfere in the question of "landless Arabs."

³For example, Mr Rappard and Lord Lugard criticised Britain for not having dealt with illegal Jewish immigration earlier than in 1933 and when immigration was increasing in 1932 these members considered the British immigration schedule too liberal.

⁴For example, as seen before, Mr Palacios called upon Britain to set up wholly elective local institutions according to the wishes of the Arabs. Mr Merlin and Count de Penha Garcia asked
Continued...

It may be stated that the stand of the members on various issues was not necessarily affected by Arab or Jewish pressure. Other factors, such as personal motives, political considerations, interpretation of the Mandate Instrument, or regard for the dignity of the mandatory might have been the guide lines.

2. On-the-Spot Visit to Palestine

On April 8, 1925, the Executive Committee of the Palestine Arab Congress called on the P.M.C. to visit Palestine in order to study on-the-spot the complaints of the indigenous population. This, they believed, would obviate the one-sided procedure followed by the P.M.C. in its previous session where only the High Commissioner, who they considered to be an "ardent Zionist", was heard while the Arabs had no representative.¹

Mr Palacios, Mr D'Andrade, and the Marquis Theodoli tended to support the view that an on-the-spot visit should be considered by the P.M.C. when "opportune and possible" and when the Council authorised it to do so. They tended to maintain that the introduction of the procedure would lead to the benefit of the Commission, the British mandatory and the mandated populations — the Arabs and the Jews.²

¹P.M.C., Minutes, VII, p. 164.

²Ibid., p. 129.

Continued from Page 82.

Britain to take measures to protect the Arabs against eviction.

The Chairman and Mr D'Andrade conceived the principal duty of the P.M.C. to be examination rather than the giving of advice. Thus Mr D'Andrade mentioned that "the P.M.C. was not a mere advisory body but that the least of its duties was to give advice. The Council could consult it, but its duty was to examine the reports of the mandatory powers."¹ And Mr. Palacios considered that a visit to Palestine "would give the Commission some idea of the atmosphere and the numerous imponderable factors which are of the first importance in solving the problem."²

However, they were careful not to use the term "inquiry" which would carry the role of the P.M.C. into the region of supervision and which would hence affect the dignity of the mandatory. Instead they used the term "visit" and were careful to emphasize that "the members of the Commission would visit the mandated territory not as enemies of the administrators but as mediators and allies."³ Further, they pointed out the benefit which might accrue to the mandatory if such a visit were undertaken. The Commission might be able, according to Mr. D'Andrade, to persuade the Jews to come to an

¹Ibid., VII, p. 125.

²Ibid., p. 181.

³Ibid., p. 127.

agreement with the Arab population and thus alleviate the task of the mandatory.¹ And Mr Palacios believed that the Commission might be able to show to the Arabs a way to accept the principle of the mandate.²

Mr Van Rees, Lord Lugard, and Mr Rappard opposed the idea of an on-the-spot visit to Palestine. Their main arguments were that the visit would be detrimental to the Palestine mandate, that the role of the P.M.C. was merely advisory and that the mandatory was to be trusted.

The most adamant propounder of this view was Lord Lugard. He maintained that an on-the-spot visit for general inquiry of the whole administration of the Palestine mandate would affect the prestige of the mandatory, for it would put the latter in the position of a defendant in front of a court of inquiry.³ Specially in a "disturbed country" like Palestine the lowering of the dignity of the mandatory and the challenge to the administration might make matters worse, according to Lord Lugard and Mr Van Rees.⁴ The latter, further presented argument based on experience against a general investigation. He maintained that unless the matter were limited to one case it would "very rarely produce any satisfactory result for the

¹Ibid., p. 56.

¹Ibid., p. 124.

³Ibid., p. 124.

⁴Ibid.

parties or one of the parties concerned."¹

The Commission's role was conceived to be purely advisory.² Mr Rappard emphasized in this respect the point that "the Commission had no executive power..."³ On specific issues, according to Lord Lugard, the P.M.C. could draw the attention of the Council that an enquiry on-the-spot was necessary. However, it was up to the Council to nominate the members of the Commission of inquiry who might, or might not, be members of the P.M.C.⁴

Further Lord Lugard tended to believe that the P.M.C. should rest assured about the policy of conciliation initiated by the mandatory.⁵ Another reason for not undertaking an on-the-spot visit to Palestine was the "material difficulties which would make it impossible for an adequate number of the members of the Commission" to visit the country.⁶

The matter was left for the Council to decide. This has been discussed in the following chapter.

¹P.M.C., Minutes, VII, p. 124.

²Ibid., p. 125.

³Ibid.

⁴Ibid.

⁵Ibid., p. 128.

⁶Ibid., p. 124.

The following conclusions may be drawn from the specific observations of the Commission on the question of self-government, immigration and land.

In general the Commission did not conceive its role to extend to the maximum terminal of the moral influence continuum - the role of a moral mentor initiating policy. Rather its role seemed to be that of a subservient to the policies of the mandatory. In most of the cases it either endorsed the British policy or remained non-committal, or kept silent where it should have criticized, e.g., concerning the immigration policy of the mandatory preceding the depression of the late 1920's.

On the issue of self-government the role of the Commission was very passive, since it did not press Britain to fulfill ~~the~~ obligation. Rather it sympathised with the difficulties encountered by Britain.

On the question of Jewish immigration, only on two occasions did it make mild criticism — once when Jewish immigration had reached its peak in 1934 and another time when Britain failed to stop illegal immigration of the Jews in 1936. It was in a matter of secondary importance of compilation of statistics of Jewish immigration that the Commission initiated action.

In respect of land policy, the Commission criticized the mandatory in 1930 only. This criticism was levelled against

British positive action for the "close settlement of land", and the provision for agricultural credits, cooperative societies and development schemes for the Arabs.

Again, on a matter of secondary importance such as the setting up of a survey of land distribution, did the Commission fail to initiate policy.

A more dynamic role was played however by individual members of the Commission. These included the nationals of the mandatory powers - such as Lord Lugard, Messrs. Orts and Merlin - and the nationals of non-mandatory powers - such as Marquis Theodoli, General Penha Garcia, Messrs. Palacios, Van Rees and Rappard. It is significant to note that the nationals of the mandatory powers criticized Britain on several occasions. Further, it is interesting to note that Lord Lugard, although a British national, exercised a considerable degree of independence from Britain.

The general observations of the Commission that up till the disturbances of 1929, the PMC's role tended to lie nearer to the minimum terminal of the moral influence continuum.

However, following the crisis of 1929, the PMC played a more dynamic role nearer to the maximum terminal of the moral influence continuum. It called for a change of British policy and criticized past action. It is significant to note that this Commission did not deal with the main issues - immigration and

self-government. The criticism was limited to administrative matters, e.g. deficiency in the number of police force.

However, in the later period of the crisis of 1936 to 1939, the Commission backed the mandatory in dealing with the existing difficulties.

The role of the PMC on the question of the future of the territory, which was raised at the time, will be discussed in Chapter VII.

The Commission attempted to enlarge its role when it proposed to conduct on spot visits and hear petitions.

CHAPTER IV

THE ROLE OF THE COMMISSION IN THE PALESTINE MANDATE AS CONCEIVED BY THE LEAGUE COUNCIL

Whatever the Permanent Mandates Commission conceived its role to be in the Palestine Mandate would later be determined by the Council since the latter could adopt, modify or reject the observations and recommendations of its advisor before submitting them to the Mandatory Power. A further control on the Commission's role was the influence the Council exercised on the former's method of operation.

A. The Council and the Observations of the Commission

The resolutions on the observations of the Commission concerning the administration of the Palestine Mandate throughout the period 1924-1939 show that the Council tended in general to approve the recommendations of the Permanent Mandates Commission. Further the minutes of the Council show that it adopted its resolutions very often without any discussion.

To understand well the attitude of the Council toward the Commission in the questions pertaining to the Palestine Mandate a quotation from the statement made by Mr. Branting, the Swedish representative, in 1923, on the Council's view of the

Permanent Mandates Commission and the general question of Mandates should be considered:

The Council which is called upon to take a decision concerning the recommendations of the Permanent Mandates Commission, will doubtless attach great weight to the authoritative opinions of the Committee of experts on colonial questions which it has itself constituted for this purpose and whose duty it is under the terms of the Covenant "to advise the Council on all matters relating to the observance of the Mandates." I believe that it would be wise to carry out its recommendations whenever political considerations —with which necessarily our advisory committee is not concerned — do not render such a course impossible.¹ (Underlines by the writer).

To apply the above to the Palestine Mandate it is necessary to study the attitude of the Council toward the impartiality and expertise of the Permanent Mandates Commission in the coming sessions on Palestine and to ascertain whether political considerations tended to push the Council to minimize or enlarge the role of the Commission.

1. Impartiality and Expertise of the P.M.C. As Viewed by the Council.

The Council recognized the difficulties which the Mandatory power and the P.M.C. would go through in dealing with the dual obligations of the mandate and Article 22 of the Covenant. Throughout the resolutions and discussions, the Council, its trust in the impartiality of the P.M.C. is evident. Thus in 1926, Mr. Uden (Swedish Representative to the Council), stated in his report on the Palestine Mandate:

¹League of Nations, Secretariat, Official Journal, Fourth Year, (Secretariat: Geneva, 1923), p. 1327. (Hereafter the Official Journal will be referred to as O.J. and the year will be represented by Roman numerals).

If we take account of the delicacy of the problems in question, I think that we can only congratulate the Commission on the sense of justice which marks its observations.... and on the wisdom of its conclusions, with which I think my colleagues will be in agreement.¹

At the same session, the President expressed on behalf of the Council, his appreciation of "the tact, devotion and complete impartiality" of the Commission in carrying out its task.²

In 1930, however, following the extraordinary session of the P.M.C. on the Wailing Wall incident, a voice was raised against the impartiality of the P.M.C.. Hassan Khan Ala, the Persian delegate, declared that:

While recognising the right of the Commission to carry out its duties in complete independence and frankness, he regretted that in enumerating the present obligations of the Mandatory Powers, it had not sufficiently emphasized the duties of that Power to safeguard the civil and religious rights of the non-Jewish communities in Palestine.³

However, at the same session of the Council, Mr. Procope paid "a tribute once more to the P.M.C. for the spirit of absolute impartiality it had displayed"⁴ and the report of the P.M.C. was adopted.

As regards the expertise of the Commission, the Council tended to have a high regard for it. Thus in 1926, it extended

¹ O.J., VI, p. 208.

² Ibid.

³ O.J., XI, p. 1296.

⁴ Ibid.

its "sincere thanks for the great competence and zeal which it (the Commission) has shown in the execution of its mission."¹

2. Two Major Issues and the Council's Attitude Toward the Observations of the P.M.C.

a) The Wailing Wall Incident and Observations of the P.M.C. at its Seventeenth Session.

The observations of the P.M.C. concerning the Wailing Wall Incident following its 17th (Extraordinary) session were considered by the Council in 1930.

Mr. Procope, the Rapporteur on the Palestine Mandate, assigned the P.M.C. the role of a moral mentor in regard to the past policies of the Mandatory. However, he tended to be apologetic as far as the advice of the P.M.C. concerning the formulation of future British policy was concerned. Thus he declared:

Its (the P.M.C.'s) report does, indeed contain some remarks on the proper policy to be followed in future in Palestine; but this must not be looked upon as an attempt on the Commission's part to supplant the mandatory power in the exercise of the duties vested in the latter under the mandate. The Commission merely touched upon this point in order to bring out the slight differences which it thinks exist between the administrative programme that it would have liked to see in operation and that which the mandatory power actually followed before the disturbances.²

During this session of the Council, the British representative, Mr. Henderson, accepted also the P.M.C.'s right to criticise the mandatory Administration for its past action al-

¹ Ibid., VI, p. 133.

² Ibid., p. 1293.

though this would place Britain on the defensive before world public opinion.¹

Mr. Procope, endorsed the recommendations of the P.M.C. on the equal weight of the dual obligations of the mandatory and their reconcilability.² He agreed with the P.M.C. that the mandatory should not be reproached as far as the establishment of Jewish National Home and self-governing institutions were concerned, since it had not crystalised their development. On this point, he had the concurrence of the Yugoslave representative, who went beyond that in expressing "complete confidence" in the mandatory in safeguarding the rights of the Moslem population and the development of the Jewish National Home. However, on this point, Hassan Khan Ala, the Persian delegate, completely disagreed. He blamed the P.M.C. for not sufficiently emphasizing the Arab rights. He also stressed that the P.M.C. and the Council should not allow the institutions of free government to be relegated to a secondary position.³

Mr. Procope referred to another matter discussed at the Commission's Seventeenth Session. He stated that:

The Mandates Commission commented on one of conclusions of Enquiry to the effect that the outbreak neither was, nor was intended to be, a revolt against British authority in Palestine. "I may state, I think, after

¹ Q.J., p. 1295.

² Ibid., p. 1294.

³ Ibid., pp. 1293 and 1296.

most careful examination of the report and of the Minutes alike that the unanimous opinion of the Mandates Commission states actually that it would be a mistake to conclude that the movement was entirely devoid of any intention to resist the policy of the mandatory power in Palestine. In my view, the Commission is here alluding only to the role of the mandatory Administration, whose duty it is to carry out the terms of the mandate.

I may state, I think, after most careful examination of the report and of the Minutes alike that the unanimous opinion of the Mandates Commission coincided in substance with that expressed in the conclusions of the Committee of Inquiry.¹

Thus he smoothed the edges of the criticism levelled by the P.M.C. on Shaw Commission's conclusions, discussed in Chapter III. It is significant to note that his views were very similar to those of the mandatory, as will be seen in Chapter VI.

The recommendations of the P.M.C. were adopted by the Council, upon the adherence to them of the British representative. The Council resolution read as follows:²

To request the British Government to adopt such measures as it thinks fit to give effect to the recommendations and conclusions contained therein, and to take the action suggested by the Commission in its observations on the annual report for 1929.

The Council also gave effect to a specific request of the P.M.C. — the setting up of an Ad hoc Commission to determine the rights of Arabs and Jews at the Wailing Wall. The members of the Commission were to be chosen by the mandatory power and

¹Ibid., p. 1293.

²Ibid., XI, p. 93. The Persian delegate abstained as he had no time to consult his government.

and submitted to the Council for approval. They were not to be of British nationality and at least one of them had to be qualified by the judicial functions he had performed.¹

b) Partition Proposal of 1937

The discussions at the Council centered on the original proposal submitted by Britain to the P.M.C. and not on the P.M.C.'s own specific suggestions as to the future of Palestine.

The French government, another mandatory power, expressed trust in the U.K. decision to terminate the mandate. The New Zealand delegate, although he too supported the British stand, hinted at a possible reconciliation where he suggested the desirability of bringing together in a conference the Arabs and the Jews.

The Polish Government, guided by selfish motives, insisted upon any solution of the Palestine question which would allow maximum absorptive capacity and thus emigration of Jews from Poland. Hence the Polish representative insisted upon a rapid solution of the problem.

The report which the Council finally adopted gave Britain the right to pursue to study the problem of the status of Palestine while concentrating on a solution involving the partition of the territory. Further, the report gave assurances on the subject of emigration.²

¹ Ibid.

² O.J. XVIII, pp. 903-4.

Thus, the final report adopted tended to coincide with the general suggestions of the P.M.C. - the specific proposals, such as cantonisation and two mandates, were not dealt with in the resolution.

B. The Council and Method of Operation of the P.M.C.

1. Consideration of Special Issues by the P.M.C.

The usual procedure followed for the consideration of special issues by the P.M.C. was the submission of the question by the mandatory power to the Council which, in turn, forwarded it to the P.M.C. However, in two cases this procedure was not followed - the mandatory directly appealed to the P.M.C. to advise the Council. The first case occurred in 1930 when the British Administration was seeking the League's approval for the setting up of an Ad hoc Commission to study the respective rights of the Arabs and the Jews at the Wailing Wall. The second case occurred in 1937 when the mandatory asked for authorization to carry out a detailed investigation on the question of the termination of the Palestinian mandate and partition. In both cases, the Council did not consider the procedure an infringement of its own proper rights. Mr. Procope reported in 1930: "The Commission was doubtless right in not attaching excessive importance to this point of form, in view of the nature, importance and above all, the urgency of the British Government's request."¹

¹Official Journal, XI, p. 71.

2. Extraordinary Sessions of the P.M.C.

In the three cases¹ that the P.M.C. requested the Council to allow it to hold extraordinary sessions, the latter acquiesced.

A request by the British representative for a further extraordinary session, in 1938, was granted by the Council on condition that the mandatory power's recommendations regarding the future of Palestine be submitted to the Secretary General long enough before the Council session of May for them to be given useful consideration by the Commission. But since the above condition was not fulfilled the suggested extraordinary session did not materialize.²

3. Oral Hearing of Petitioners.

The granting of the right to hear petitioners would constitute an enlargement of the Commission's role as a supervisor of the mandate system. The Commission, as seen in Chapter III, preferred to have the Council's approval before adopting such a procedure. The rapporteur of the Council, Mr. Unden of Sweden on September 3, 1926, pointed out in his report that he was personally inclined to allow the Commission to go ahead with the project but asked the PMC to formulate rules for the hearing of petitioners and to submit them to the Council. However, to the

¹The three extraordinary sessions on Palestine were in 1924, in 1930 (on the Wailing Wall incident), and in 1937 (on the Partition Plan of British Administration).

²P.M.C. Minutes, XXXVI, p. 12.

British representative at the Council, Sir Austen Chamberlain, this proposition seemed "excessive."¹ He asked the Council to find out the opinion of the mandatory powers before taking any decision. And on September 4 the Council complied. The mandatory powers unanimously opposed the hearing of petitioners as Mr. Doude Van Troostwyk report to the Council shows. They emphasized that the PMC was not a tribunal. If the mandatory were placed on parity with the petitioners as litigants, this would damage their prestige, they thought. They did recognize that the PMC might need additional information, but the source for that would be the mandatory powers themselves. In exceptional cases, they placed the decision for exceptional procedures in the hands of the Council and not the P.M.C.² According to the British representative, the wide experience that Britain had from its colonies indicated that written evidence was sufficient. Based upon the recommendations of the mandatory powers the Council on March 7, 1927, passed a resolution to the effect that there was no need to change the existing procedure.³

4. On-The-Spot Visit to Palestine by the PMC

Like the oral hearing of the petitioners the contemplated visit of the PMC to Palestine would enlarge the supervisory powers of the Commission. The P.M.C. wished to ascertain the

¹The representatives of France (who pointed out the intrigues which oral hearing may lead to) Belgium, New Zealand and Union of South Africa also opposed the oral hearing of petitioners. PMC, Minutes, X, p. 11.

²League of Nations, September 3, 1926, Minutes, Session XL1, O.J., VII, pp. 1232-39 and 1240.

³O.J., VIII, p. 438.

the views of the Council, as seen in Chapter III. The Council opposed this change in 1925 after having consulted the observations of Britain on the matter. It is true that it did recognize that the PMC acted "under certain limitations" but asked the Commission nevertheless to give a "statement of the best judgement it could form from the information placed at its disposal."¹

Examining the relations between the Council and the PMC as far as the latter's method of operation in considering the Palestine mandate is concerned, it may be concluded that whereas the Council did acquiesce with the PMC in such matters as the consideration of special issues and the holding of extraordinary sessions — matters which did not enlarge significantly the role of the PMC — in other matters such as the hearing of petitions and the visit to Palestine — matters which would significantly enlarge the Commission's powers of supervision — the Council rejected the PMC's proposals for a change of its method of operation. It is important to notice too that the Council took this latter decision after consultation with the mandatory powers.

¹
O.J., VII, p. 270.

CHAPTER V

THE INDIGENOUS POPULATION'S CONCEPTION OF THE ROLE OF THE PERMANENT MANDATES COMMISSION

In a British colony, the indigenous population could make petitions to the King, complaining about the measures of the British Colonial Administration. But in this system of appeal there were two main drawbacks. The appeal was to be addressed to a higher authority of the same colonial power. Hence it would seem highly unlikely that this authority would take a decision detrimental to British interests where the latter conflicted with the interest of the colonial peoples. Further, the King was under no obligation to take action upon the matter. Upon his refusal to do so the matter would be closed.¹ In the mandatory system, however, a new system of appeals was introduced. An outside international body, the Permanent Mandates Commission, was to receive petitions usually directed against the administration of the mandatory power. Hence the interests of the indigenous population would, theoretically at least, tend to be looked upon more impartially. Besides, inhabitants of other territories could also address petitions on behalf of the indigenous population. This acquires special importance in view of the fact that both the Arabs and Jews in Palestine had co-national group outside the country.

¹P.M.C. Minutes, XVI, p. 156.

How wide was the role of the Commission conceived to be by the population of Palestine? Was there a difference in the attitudes of the Arabs and Jews towards the role of the Commission? Did this attitude change over the years? Did the indigenous people, especially in times of crisis, dare to submit petitions through the mandatory? What was the subject matter of the petition?

This study is exclusively based upon the letters, telegrams and memoranda addressed to the P.M.C., as they appear in the annexes and debates of the "Minutes" of the P.M.C.

A. Arab Petitions

During the period 1924-39, when the Permanent Mandates Commission considered the Palestine Mandate, a total of about 260 petitions, memoranda, and telegrams were received from Arab sources. Of these, 173 emanated from outside Palestine and 87 from Palestine. The petitions dealt with the future of the mandate and with more specific issues.

1. The Future of the Mandate

Throughout the period 1924-1939, Arab petitions expressed hostility to the Balfour Declaration which was incorporated in the mandate instrument, and demanded its withdrawal. Did this mean that they would accept a mandate system which did not incorporate the Balfour Declaration? Or did it mean that they demanded

Independence? If the latter were the case, was their aim independence alone or unity or federation with other Arab states as well?

a) Withdrawal of Balfour Declaration

The petitioner tended to give priority to Article 22 of the Covenant over the mandate instrument in cases where the two conflicted and in fact asked the P.M.C. to use the former as its primary term of reference in exercising its role. They pressed for the withdrawal of the Balfour Declaration on the following grounds:

1. The Hussein-McMahon Correspondence of 1915 and wartime promises of Allies.

2. Article 20 of the Covenant according to which:

(i) Members of the League severally agree that this Covenant is accepted as abrogating all obligations or undertakings inter se which are inconsistent with the terms thereof and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

(ii) In case of any Member of the League shall, before becoming a Member of the League, have undertaken any obligations inconsistent with the terms of this covenant, it shall be the duty of such member to take immediate steps to procure its release from such obligations.

3. Article 22 of the Covenant (paragraph 4).

4. Point 12 of the 14 points of President Wilson which called for self-determination.

5. The "irreconcilability" of the dual "pledges"¹ of the Balfour Declaration. In this connection the petitioners referred to Article 2 of the Mandate Instrument and showed the incompatibility of the provisions for self-government and the establishment of the Jewish National Home.

Thus they pointed out that the Jewish Agency envisaged by Article 4 of the Mandate Instrument and the self-governing institutions with an implied Arab majority provided by Article 2 were incapable of cooperation. Further they referred to Article 6 and showed the irreconcilability between Arab economic well-being and the acquisition of land by the Jews. They also claimed that the chief occupations of Jewish immigrants (Professional, merchants, usurers) were unsuitable to Palestine - a predominantly agricultural country.²

In short, as the Arab Executive maintained in its letter of December 1930, the Arabs considered the Balfour Declaration "as being in violation of the natural and national rights of the Arabs."³

It was during the period of the 1927-29 disturbances that the number of petitions demanding the withdrawal of the Balfour Declaration reached its peak. The majority emanated

¹League of Nations, Secretariat, Its Constitution and Organization (Geneva: 1926), p. 61.

²P.M.C. Minutes, VII, 160-64 and 172. An example - Two memorandums by the Executive Committee of the Palestine Arab Congress on April 12th, 1925. The other petitions on this topic tended to repeat the same arguments.

³P.M.C., Minutes XX, p. 223.

from outside Palestine. Some of them were addressed from Iraq, Egypt, Lebanon, Tunisia, i.e. from the other Arab countries.¹ (See Table 5).

Following the disturbances of October 1933, two petitions dated May 19, 1934, from Mr. Ihsan El-Djabri of Syria² attributed the events to the fact that "the conception and application of the Palestine Mandate are diametrically opposed to the spirit and the letter of Article 22 of the Covenant"³ and demanded that "an end shall be put to the violation of Article 22 of the Covenant and the principles on which the league of Nations is based shall be respected."⁴ It is not clear from these documents whether Mr. Djabri would accept the mandate system for the time being if the Balfour Declaration were withdrawn from it or whether his main aim was to press for immediate independence.⁵

b) Independence

Glancing over the Arab petitions received by the Commission during its existence, one may conclude that generally they demanded independence - explicitly or implicitly.

¹P. M. C. Minutes, XIV, p. 276; XV, p. 288; XVI, p.172; and XVII, p. 133.

²Mr. Ihsan El-Djabri, a doctor in law, was a Syrian nationalist. Throughout the period 1926-37 that he spent in Europe, he worked for the cause of Arab nationalism. He was the founder of the Human Rights Community from which grew the Sha'ab Party and the Nationalist Party.

³P.M.C., Minutes, XXVII, p. 195.

⁴Ibid., p. 201. He did not specify "the principles".

⁵In an earlier petition, Mr. Djabri had asked for the abolition of the mandate.

Specific demands for independence came from Mr. Jamal Husseini, the General Secretary of the Executive Committee of the Palestine Arab Congress of Jerusalem (on October 6, 1924¹ and May 9, 1926²), the Executive Committee of the Syro-Palestinian Congress of Cairo (on September 29, 1925³) and the Arab and Christian Congress of Jerusalem (on June 20, 1928⁴).

Following the riots of 1929, Mr. Ihsan El-Djabri, writing from Europe, asked for the abolition of the mandate.⁵ And six months after the publication of the MacDonal'd Explanatory Letter ("Black Letter" of November 14, 1930), Mousa Kazem Hussaini, President of the Arab Executive Committee in Palestine, repudiated the mandatory regime in Palestine and expressed the Committee's "firm resolve to make every endeavour to remove this oppression."⁶

In the following five years, calls for independence were made by Executive Committee of the Syro-Palestinian Congress of Cairo (on September 29, 1925)⁷, by the Palestine Arab Women's Congress (January 28, 1932)⁸, by the Arab Independence Party of Jerusalem (May 25, 1933)⁹, by the "Association Syrienne Arab of Paris (February 28, 1934).¹⁰

¹P.M.C., Minutes, V, p. 173.

²Ibid., Minutes IX, p. 204.

³Ibid., VII, p. 186.

⁴Ibid., XIII, p. 197.

⁵Ibid., XVII, p. 130.

⁶Ibid., XXI, p. 203.

⁷Ibid., VIII, p. 186.

⁸Ibid., XXII, p. 343.

⁹Ibid., XXV, p. 134.

¹⁰Ibid., XVI, p. 178.

In 1935, Mr. Jamal Husseini pressed for "reversion to the principle of self-determination" as a remedy against the fact that the Arabs were being pressed out of their country.¹

Following the disturbances of April 1936, ten petitions from Palestine asserted that the British policy should be fundamentally altered so as to allow the emancipation of Palestine as an Arab country with a Jewish minority.² And the Arab National Defence Party of Palestine asked for the settlement of the Palestine problem on the same basis as that on which the problems of Iraq and Syria were being solved.³

A further call for independence was made by Mr. Husseini, former President of the Arab Higher Committee in 1937.⁴

c) Condition After Independence

Whereas most of the petitions calling for the independence of Palestine were silent about subsequent unity or federation with other Arab States, some petitions urged the above formulae.

As early as 1925, a petition emanating from Cairo addressed by the Executive Committee of the Syro-Palestinian

¹P.M.C. Minutes, XXIX, p. 188.

²Ibid., XXXII, pp. 212 and 216.

³Ibid., XXXIV, p. 212.

⁴Ibid., XXXIV, p. 207.

Congress pressed for Palestinian unity with Syria and Lebanon and subsequent federation of this block with other Arab States. A somewhat similar proposal was put forward by the Palestine Arab Women's Congress (January 28, 1932).¹ It stated that the ultimate aim in abolishing the mandate would be the establishment of a national government responsible to an elected representative Council "with a view to complete independence of Palestine and its affiliation to an Arab federation."² (underlining by the writer). Further in May 1933, the Arab independence Party called for "union with other Arab countries" upon independence.³ After this date petitions were silent about the question of the condition of Palestine after independence so far as its relations with other Arab countries were concerned.

The Arab petitioners would not accept a partitioned independent Palestine. Mr. Husseini, President of the Arab Higher Committee voiced Arab opposition to the Partition Plan of the Peel Commission as an ultimate solution of the Palestine problem. He stated that he felt "strongly aggrieved that the interests, national existence and rights of the country should

¹P.M.C., Minutes, VIII, p. 186.

²Ibid., XXII, p. 343.

³Ibid., XXV, p. 134.

have been sacrificed at all times by such actions ever since the issue of the Balfour Declaration up to this very moment."¹

In this section it may be seen that the Arab petitioners in the question of the future of Palestine regarded the role of the Permanent Mandates Commission to be perhaps as an amender of the mandate instrument and even as the abrogator of the mandate.

As the above petitions were challenging the authority of the mandate instrument itself, the P.M.C. considered them to be outside her scope of examination.²

2. Specific Issues

But if the Arabs had ultimate demands which they considered irreconcilable with the mandate instrument they did not neglect to present petitions on the more specific everyday issues that they faced so long as the mandate was in operation. In fact there were sections of the mandate instrument that they frequently referred to in order to uphold their rights.

a) Self-Government

Throughout the period 1924-39 the Arabs pressed for the development of self-governing institutions.

1) At the Local Level

At first the Arabs asked for the holding of municipal elections. They based their agreements on the following:

¹P.M.C., Minutes, XXXIV, p. 207.

²The Regulations concerning rejection of petitions have been discussed in Chapter II.

- (i) Article 3 of the Mandate Instrument - which provided for local autonomy.
- (ii) Self-government practised under Turkish Rule.
- (iii) Achievements of the Moslem Council, which pointed to their readiness for self-rule.
- (iv) The fact that less developed neighbouring Arab Countries did enjoy self-government.¹

Later, in 1927, after the municipal elections took place, the Paléstine Arab Congress complained about the fact that the mandatory government had not consulted them on the regulations of the elections and that the mayors were still to be nominated by the government. The P.M.C. in her observations to the Council, expressed satisfaction about the Municipal Law which it considered a basis for future progress.²

In the coming years, the petitioners were either silent on this point or just hinted at it. More attention was focussed on self-government at the national level.

a) At the National Level

At times due to the absence of self-governing institutions at the national level the petitioners called the British rule "a colonial rule".³ In this connection Mr. Jamal Husseini, President of the Palestine Arab Party, wrote on May 2nd, 1935: "Palestine is not governed as a territory under the tutelage of a mandatory, but as a British colony."⁴

The P.M.C. took no action on these petitions since it did not consider the existing regime incompatible with the

¹ P.M.C. Minutes; VII, p. 203.

² Ibid., XI, p. 208.

³ Ibid., XIV, p. 246-47

⁴ Ibid., XXIX, p. 186.

Covenant of the League and the Mandate Instrument. Moreover, it was satisfied with the fact that the mandatory herself had expressed concern about the development of self-governing institutions.¹

The Arab petitioners asked for a democratic parliamentary regime on the following grounds:

- (i) Article 22 of the Covenant - Guaranteeing tutelage.²
- (ii) Allied promises of independence.³
- (iii) Article 2 of the Mandate Instrument,⁴ which called for the establishment of self-governing institutions.
- (iv) The Shaw Commission Report of 1930 which observed that the difficulties of the Administration were greatly aggravated by the absence of any measure of self-government.⁵
- (v) Arab participation in the elected Administrative Council in the Ottoman Empire which provided them readiness for self-government.⁶

They did not favour the establishment of an Arab Agency.⁷ They stated: "The Arab owners of the country cannot

¹ Ibid., and XIV., p. 247.

² Ibid., p. 246.

³ Ibid. For example, Hussein-MacMahon Correspondence of 1915.

⁴ P.M.C., Minutes XXIX, p. 186.

⁵ Great Britain, Report of the Commission on the Palestine Disturbances of August 1929 (Shaw Commission Report), (London: His Majesty's Stationery Office, 1930), p. 163.

⁶ P.M.C., Minutes, V, p. 174.

⁷ The Arab Agency offer was made by the High Commissioner in 1923. The Agency was to be a "fully representative meeting of Arab notables". Royal Institute of International Affairs, Op.Cit., p. 42.

see their way to accept a proposal which tends to place them on equal footing with the alien Jews. In addition, the name of Arab Agency would make them feel they were strangers in their own country.¹ The Minutes of the P.M.C. show no evidence that the Commission considered this petition.

Referring to the Legislative Council proposal which the British Government put forward in 1922,² the Executive Committee of the Palestine Arab Congress in a petition dated May 9, 1926, maintained that the Arabs had turned down the proposal because the Council did not contain a clear majority of Arabs over all others.³

It seems that the petitioner here regarded the PMC, as an international public opinion forum where the indigenous population could explain why it had rejected certain measures of the mandatory.

Arab demands for a democratic parliamentary regime were flowing to the P.M.C. In 1928, the Palestine Arab Congress drew the attention of the Commission to the fact that the other Arab countries were granted parliamentary regimes.⁴ In 1930, it reiterated its demands.⁵ The Arab Independence Party, in 1933, repeated the demands, of the Palestine Arab Congress and mentioned that it did not consider the Supreme Moslem Council to

¹P.M.C., Minutes, V, p. 174.

²The Legislative Council was to consist of the High Commissioner and twenty-two members, ten official and twelve elected, of whom ten were to be Arabs (eight Moslems and two Christians) and two Jews. Royal Institute of International Affairs, Op.Cit., p. 41.

³P.M.C., Minutes, IX, p. 203.

⁴Ibid., XIV, p. 246.

⁵Ibid., XX, p. 223.

be of "decisive importance"¹ in the direction of self-governing institutions.

Commenting on the first petition, the P.M.C. stated that as a trustee of the principles of the Covenant and of Mandates, it was "not called upon to recommend any particular form of government" since these two instruments did not specify a democratic or parliamentary form of government. The matter was left to the mandatory to decide.²

Other petitions which mentioned specifically the proportion of Arabs to Jews in a future National Constitutional Government met with the same fate. In this connection may be mentioned a petition from Mr. Jamal Husseini (on May 9, 1926)³ which mentioned that the proportion of Arabs to Jews in a future National Constitutional Government should be in accordance with their relative number.⁴ And according to the Executive of the Arab Congress (on November 9, 1923) this proportion was to be "the proportion prior to the application of the Zionist policy."⁵

After the 1933 disturbances there seems to be a greater emphasis put by the petitioners on the fact that the Jewish

¹Ibid., XXV, p. 134.

²Ibid., XIV, p. 247.

³Ibid., IX, p. 204.

⁴A petition to the same effect sent by the Arab and Christian Congress of Jerusalem (on June 20, 1928) was rejected because it had not been sent through the mandatory. Ibid., XIII, p. 197.

⁵Ibid., V, 173.

National Home policy was incompatible with self-governing institutions. As an example, a petition, dated October 6, 1934, from Messrs. Emir Chekib Arslan and Ihsan El Djabri, Arab Nationalists, may be cited.¹

Mr. Palacios, the rapporteur of the P.M.C. on the above petition expressed confidence in the Mandatory's policy concerning the above dual obligations. It urged the petitioners to have "confidence in the nation which bears the immense responsibility of its sacred mission of civilization," and to collaborate with it.²

b) Immigration

Two main points were put forward by the Arab petitioners - a protest against a too wide interpretation of the economic absorptive capacity criterion adopted by Britain in the 1922 White Paper to regulate Jewish immigration, and a demand for the outright cessation of Jewish immigration. Some petitioners brought up these two arguments simultaneously whereas others merely voiced one of them. Other subsidiary points raised were in relation to the type of the immigrant and illegal immigration.

The premises of the Arab arguments were Article 6 of the mandate, which had called for the ensuring "of the rights and position of other sections of the population" (Arabs) by the Mandatory in its policy of facilitating Jewish immigration, and

¹Ibid., XXVII, p.201.

²Ibid., XXVII, p. 202.

the Arab interpretation of the economic absorptive capacity criterion.

1) British Interpretation of the Economic Absorptive Capacity Criterion and the Demand for Cessation of Immigration.

The Executive Committee of the Palestine Arab Congress in April 1927 blamed the British administration's immigration policy for the economic depression that set in Palestine from 1925-29 and for the resultant public disorders. They maintained that Britain ignored the economic absorptive capacity of the country in allowing a great influx of Jewish immigrants. The P.M.C. reassured the petitioners that the mandatory had expressed her intention of adhering to the economic absorptive capacity formula, and had already introduced restrictive measures.¹

When Jewish immigration was temporarily stopped in May 1930, the Executive Committee demanded that it be stopped indefinitely.²

In the mid-1930's when immigration was reaching its second peak, the same demand was put forward by the Arab Independence Party (May, 1933)³ and the Syrian Arab Association of Paris (February, 1934)⁴. Again they attributed unemployment, poverty and strife to the immigration policy of the British Administration. There was a difference of attitude in these two groups towards the role of the Permanent Mandate Commission. The

¹P.M.C., Minutes, XI, p. 208.

²Ibid., XX, p. 223.

³Ibid., XXV, p. 134.

⁴Ibid., XXVI, p. 178.

Syrian Arab Association seemed to view the P.M.C. as a possible ally of the Arabs in this issue against the Jews and the Mandatory Government. However, it did not seem to rely entirely on the P.M.C. for it stated in the same petition: "As they have no means of redress, the Palestine Arabs are obliged to defend their existence as best as they can."¹ The Arab Independence Party, on the other hand thought of the P.M.C. as the supporter of the Zionists... "most members (of the P.M.C.) ... are, in its (The arab Independent Party's) opinion conspiring with the Zionist authorities to despoil the Arabs of their rights," according to the report of Mr. Palacios, Rapporteur to the P.M.C.² Referring to the first petition, the P.M.C. just drew the attention of the Council "to the state of mind" of the petitioners, and did not take any action on the petition.³ The P.M.C. rejected the second petition because it complained about the terms of the mandate.

Five other petitions (2 from Palestine, one from Mr. Ihsan El Djabri and one from Cuba) voiced protest against excessive immigration.⁴

As immigration reached the peak in 1935, the petitioners protested more vehemently against excessive immigration.⁵

¹Ibid.

²Ibid., XXV, p. 134.

³Ibid., XXVI, p. 178.

⁴Ibid., p. 136.

⁵Ibid., XXVII, pp. 195, 199 and 201.

Further, they tended to put a greater share of the blame on the Jews. Messrs. Emir Chekib Arslan and Ihsan El-Djabri blamed the Zionists for restoring "to every imaginable ruse" to increase immigration, going so far as to sacrifice honest British officers who stood in the way of their policies.¹ And Mr. Ihsan El-Djabri, writing on May 19, 1934, showed his distrust of the League of Nations and the Permanent Mandates Commission. He blamed the latter for having accepted an increase of immigration and for having "strenuously opposed even a temporary discontinuance of immigration."²

The petitioners tended to consider the economic prosperity of Palestine as presented by the mandatory to be a fiction. According to Mr. Djabri prosperity existed only in the Jewish colonies and among a few "unscrupulous effendis."³ In this connection Mr. Jamal Husseini, President of the Palestine Arab Party, mentioned (on May 2nd, 1935), that in 1920 when the numbers of immigrants was 4,944 the ratio of exports to imports was 2.2 to 6.5 whereas in 1933 when the number of immigrants became 50,000, the ratio became 2.5 to 11.1.⁴ Further Mr. Djabri pointed out that according to the Shaw Commission, Hope Simpson and Lewis French the country had already reached the limits of its economic absorptive capacity.⁵

¹Ibid, XXCII, p. 201.

²Ibid., p. 195.

³Ibid., p. 196.

⁴Ibid., XXIX, p.186.

⁵Ibid., XXVII, p. 195-96.

Mr. Husseini agreed with Mr. Arslan that the "rights and position" of the Arabs guaranteed by Article 6 of the mandate had been violated.¹

The P.M.C. stated in its observations to the Council on the above petitions that the mandatory power had taken measures to improve conditions "A work of such magnitude cannot be achieved in a single day... it requires the cooperation and sympathy of all."²

Two petitions from Mr. Chekib Arslan, September 19, and 24, emphasized the point that unlimited immigration would lead to the establishment of a Jewish state rather than a home and thus would be contrary to the spirit of Article 22. The P.M.C. took no action on this petition.

2) The Type of Immigrants Admitted

In May 1935, the Arab National Medical Association of Haifa, addressed a petition to the PMC complaining about the fact that the mandatory had not heeded the Association's advice, in 1932, not allow any more doctors to immigrate to Palestine in view of the excessive number already practising in the Country. The P.M.C. reported that the mandatory had already started to take remedial steps.³

¹Ibid., and XXIX, p. 186.

²Ibid., XXIX, p. 190.

³Ibid., XXIX, p. 192.

3) Illegal Immigration and the Mandatory's Handling of the Problem.

Complaints about illegal immigration by the Haifa Moslem Association, Messrs. Chekib Arslan and Ihsan El Djabri were forwarded to the PMC in 1935.¹ For example, Haifa Moslem Association called for the Mandatory Power to prevent clandestine Jewish immigration and to expel all Jews who had already entered the country secretly.² The P.M.C. did not recommend any action as it was satisfied with the measures — such as the strengthening of border patrols — that the mandatory had already taken to remedy the situation.

c) Land

The Arab demands centered around the stoppage of the development of the Jewish National Home through prohibition of the transfer of land from Arabs to Jews and the protection of the rights of the Arabs. The Arab view was well presented by Mr. Ihsan El Djabri on September 7, 1929. He qualified the development of the Jewish National Home as "unjust", "impracticable" and "harmful".³ Various petitions tried to show this in connection with the following issues.

1) Transfer of Arab Land and Property

In general, petitions emphasized the impracticability of establishing a Jewish National Home in Palestine. Messrs. Emir

¹ Ibid., XXVII, pp. 196, 199 and 201.

² Ibid., p. 199.

³ Ibid., XVII, p. 130.

Chekib Arslan and Ihsan El Djabri on October 6, 1934, maintained that Palestine would never support all the Jews of the world and suggested that Palestine become a "spiritual home" only - settlement of Jews to take the place elsewhere. Further, they stressed that the historical link of Jews with Palestine was broken 14 centuries ago.¹

The main arguments centered around the repeal, amendment or passage of ordinances and with the concessions granted to the Jews.

1925, the petitioners asked Britain to repeal the ordinances which tended to drive the Arabs to sell lands.²

Following the Passfield White Paper of October 20, 1930, the Arab Executive Committee asked the mandatory to apply a new land policy prohibiting the transfer of Arab lands. And in 1933 the Arab Independence Party reiterated this demand so as to discourage the Arab Farmer from being attracted by Jewish gold. As this petition also complained about the mandate instrument, the P.M.C. did not consider it.³

¹Ibid., p. 201.

²Ibid., V, 168. For example (i) the Ordinance of 1921 prohibited exportation of local products - grain and olive oil. This resulted in the fall of prices. Farming became unprofitable. Thus land-owners had to sell his land. (ii) The proclamation by the Government that the Ottoman Agricultural Bank was under liquidation. The debtors of the bank, all poor farmers, could not settle their accounts unless they sold land. (iii) The putting into force by the British Administration of a Turkish law that had not been enforced before whereby a proprietor who failed to cultivate his land or a part of it in three consecutive years was to lose his title to it. The farmer could not cultivate all his lands within the specified period. Therefore he sold it.

³Ibid., XXV, p. 134.

1935, the Palestine Arab Party drew the attention of the Permanent Mandates Commission to the fact that the British administration had not adopted the recommendation of British experts in connection with the prevention of the transfer of land from Arabs to Jews.¹ And the Haifa Moslem Association pushed forward a demand for the passage of a law to protect the occupant of the soil against total eviction when immovable property was sold.² Referring to these petitions, the P.M.C. declared that the transfer of land was still a matter of concern for the mandatory and hence the P.M.C. would make no recommendations to the Council on the petition.³

From a study of the above petitions it may be concluded that the petitions tended in general to think of the Permanent Mandates Commission as a possible initiator of policy favourable to the Arabs. However, one petition from Messrs. Arslan and Djabri in October 1934 showed distrust of the League:

The League of Nations with all its institutions, are, the petitioners think, aiming at the total spoliation of Arab lands and the extinction of the Arab race in Palestine... On the contrary it is the guardian's duty to see that the economic distress of the ward shall not force him to submit the expropriation.⁴

To this all that the Commission replied was that it

¹ Ibid., XXIX, p187.

² Ibid., and p. 187.

³ Ibid., XXVII, p. 201.

had confidence in the policy of the mandatory.¹

Many of the petitions dealt with the concessions granted to Jews by the British administration. They drew the attention of the Permanent Mandates Commission to the fact that these concessions were unjust. Their main arguments centered around the secrecy of the agreements, the violation of the rights of non-Jews and the breaking of Turkish Law (which demanded that the local authorities be consulted in any grant).² In 1925, a petition claimed that the lands of Barrat Ceasarea which fell within the area covered by the Kabbara concession were not state lands (according to the Land Law 1274 Reg.).³ Therefore, in another petition they asked for the exclusion of this land from the concession area.⁴

The P.M.C. asked Britain to submit more details about the concessions.⁵

In 1936, the Palestine Arab Party criticized the Mandatory for the transfer of the Huleh region "one of the most fertile in Palestine" to the Jews instead of keeping it under its own control as British experts had advised.⁶

¹Ibid., p. 202.

²Ibid., XI, pp. 210-11.

³Ibid., VII, p. 168.

⁴Ibid., XI, p. 211.

⁵Ibid.,

⁶Ibid., XXIV, p. 188.

Analysing the Partition plan, a petition by the President of the Arab Committee of the Citrus Fruits Industry, Jaffa on July 29, 1937, showed that it would result in the transfer of all cultivable land from Arabs to the Jewish State. Hence the plan was unacceptable to the Arabs.¹

2) Protection of the Arabs

Here the problem of the "landless Arab" comes to the foreground. The petitioners, in general tended to ask the British Government to give land to the dispossessed "fellaheen" in the Huleh region should the concessionnaires fail to carry out the provisions of the concession. Further, they pressed for the establishment of cooperative institutions and reinvestiture of the agricultural bank for the protection of the fellaheen.

In 1933 when Britain had advanced £P 33,000 in loans to the fellaheen, the Arab Independence Party referred it as "insignificant" in view of the lot of the fellaheen. The Party drew the attention of the Commission to the fact that the estimate of the average annual Arab per capita income by the High Commissioner was an exaggeration, the actual figure being four Palestinian pounds instead of twenty as given by the latter. As this petition also complained about the Mandate, the P.M.C. took no action on it.²

¹Ibid., XXXIV, p. 212.

²Ibid., XXV, p. 135.

In 1935, the Palestine Arab Party informed the League of Nations that the advice of the British experts concerning the intensification of cultivation by expenditure of at least £P2,000,000 had not been carried out by the British Administration.¹

d) Buraq (Wailing Wall) and Religious Rights

In this connection the petitioners tended to view the role of the P.M.C. in a new dimension. It was not called upon to change a policy already initiated or to push for new policies but to guard the status quo, i.e. its role was conceived to be that of a preventer of change. But since the petitioners felt that strong forces of change were at work, they conceived this role of the P.M.C. in dynamic way. Referring to Articles 11 and 22 of the Covenant of the League of Nations, Messrs. Emir Chekib Arslan, Ihsan el Djabfi and Riad el Souh on December 11, 1928 asked for the intervention of the Council to assist the Arabs.² But this could be done only upon a strong recommendation of the P.M.C. The P.M.C. did not take a neutral stand by calling for the setting up of a commission to study the rights of Jews and Arabs at the Wall.³

The General Moslem Conference for the Defence of Buraq considered the P.M.C. as one of the media to reach world public

¹Ibid., XXX, p. 187.

²Ibid., XV, p.252.

³Ibid.

opinion. It issued a warning that such encroachments of Moslem rights at the Buraq would lead to serious occurrences in the Moslem world.¹

The General Moslem Conference in its letter of November 7, 1928, to the P.M.C. interpreted the Status quo as the situation where the Jews had no property rights over the Wall and were allowed to come there out of toleration by the Arabs but not to worship or preach. They tended to base their arguments on the following points:²

- (i) The Buraq as a religious sanctuary was part of the Aqsa Mosque sanctified by the text of the Koran.
- (ii) The Buraq as an inalienable Wakf property which was upheld by past official documents and actions of the British Government.
- (iii) The exercise of this right by the Arabs for the last thirteen centuries.
- (iv) Religious rights upheld by Article 13 of the Mandate instrument.

At the time of the Partition Plan, according to the Sub-Committee of the P.M.C. which studied the petitions received by the Commission, stated that several petitions opposed the Plan on purely Islamic religious grounds.³ Here too the role of the P.M.C. was concerned to be that of guardian of Status quo.

¹Ibid., p. 251.

²Ibid., XV, p. 251.

³Ibid., XXXIV, p. 212.

B. Jewish Petitions

During the period extending from 1923 to 1939 about 550¹ petitions, memoranda, communications, letters, telegrams, etc. were received by the Permanent Mandates Commission from Jewish sources. Of these, 58 emanated from Palestine proper — ten of the latter being from Zionist sources.² The total of petitions emanating from sources were 89. Those emanating from Zionist Revisionists and New Zionists amounted to 10 and 11 respectively.³

Like the Arab petitions, the Jewish ones dealt with the future of the mandate and more specific issues.

1. The Future of the Mandate

At various times, various Jewish groups emphasized:

- a) Establishment of a Jewish National Home.
- b) Creation of a Jewish State.

- a) Establishment of a Jewish National Home

A glance at the various petitions and memoranda received from the Zionist Organization and the Jewish Agency shows that

¹This figure includes the 148 communications received from Poland in 1937, about which the minutes of the P.M.C. are silent as to specific authorship or topics discussed.

²This figure does not include the memoranda which emanated from the Jewish Agency from 1930 onwards since from that date the Zionist Organization per se did not stand for the Jewish Agency. The number of these reports from the Jewish Agency was eight.

³The first petition emanating from Zionist Revisionists arrived in 1929 and the first from the New Zionists in 1937.

what was being aimed at was the establishment of a Jewish National Home. But what did this really mean? The establishment of a Jewish State? Or, the establishment of an enlarged Jewish community in Palestine under the British mandate?

There was no specific mention of a Jewish State by the Jewish Agency. The same was true of the Zionists until 1937.¹ The annual memoranda to the P.M.C. by the Zionist Organization and from 1930 onward, by the Jewish Agency dealt with the development of the Jewish Agency and the Jewish National Home in Palestine under the mandate. The covering letter from the President of the Agency summarized the above and put forward requests which until 1937 centered around the development of the Home under the mandate. Hence, as far as the P.M.C. was concerned, no mention was made by the Petitioners of a demand stretching beyond the mandate.

The main arguments presented by the petitioners centered around:

1) Article 2 of the Mandate Instrument which, as seen in Chapter III, called for "placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish National Home.

1

After 1937 only two Zionist petitions were received by the P.M.C. but their texts are not included in the Minutes of the P.M.C. Hence, the writer cannot mention what specifically the petitioners sought in terms of the future of the mandate.

2) The saving of Jews from persecution.

3) The benefit to the country as a whole resulting from the establishment of the Jewish National Home.

4) The letter, dated February 14, 1931 from Mr. Ramsay MacDonald, British Prime Minister, to Dr. Weizmann¹, which was more favourable to the establishment of the Jewish National Home than the White Paper of 1930.

A glance at a telegram dated June 3rd, 1930 from the Jewish Agency and from various Jewish and Zionist organizations and notables from Eastern Galicia, which emphasized "the determination of the Jewish people to rebuild their National Home in Ertz-Israel"², shows that the petitioners were not explicit in the case as to whether they wanted to establish their National Home under the mandate or were aiming at a Jewish state.

The Commission did not consider this petition although it was brought to its attention. No reason was given for this action.

The 1931 memorandum by the Jewish Agency mentioned for the first time the principle of numerical "non-domination" in the development of the Jewish National Home.

As can be deduced from the following quotation, this principle did not preclude a Jewish majority in Palestine:

¹P.M.C., Minutes, XXII, pp. 343-44. Memorandum of the Jewish Agency for Palestine dated September 12, 1932.

²Ibid., XVII, p. 136.

...active measures in the economic, social and political fields with a view to bringing about peaceful relations and a rapprochement between Jews and Arabs in Palestine, on the principle that whatever the numerical strength of either people, either shall dominate nor be dominated...¹

The Commission did not make any recommendations to the Council on the memorandum since it received assurances from the mandatory power that the British Administration in Palestine would gradually give effect to the requests presented therein under the mandate.²

Following the partition proposal of the Royal Commission, in 1937, Mr. Justin Godart, Chairman of the Committee for the Defence of the Rights of Jews in Central and Eastern Europe, proposed a solution whereby there would be numerical parity between the Jews and the Arabs under a unitary Palestine. But it is not clear whether he was contemplating the termination of the mandate or not. The P.M.C. saw "no ground for optimism of that subject, thus agreeing in general with the mandatory power."³ However, it did not make any special observations on the petition to the Council since the partition proposal was still being studied by Britain.⁴

b) Creation of a Jewish State

As early as 1929, a joint petition from two Jewish organizations, the Mizrachi Zionist Federation of Greece and

¹Ibid., XXXIV, p. 212.

²Ibid., p. 215.

³Ibid., XXXIV, p. 212.

⁴Ibid., p. 215.

and the Union of Revisionist Zionists, wrote about their "unshakable determination, whatever may befall to pursue with vigour than ever, and at the cost of whatever sacrifice, the task of gradually rebuilding Palestine as a "Jewish State.""¹

This demand was emphatically put forward, in 1934, by Dr. A. Weinshal, President of the Central Committee of the Zionist Revision in Palestine (Haifa). In a petition entitled "The meaning of the Mandate: The creation of a Jewish State", he appealed to the P.M.C. to intervene to bring about a "radical revision of the principles of administration in Palestine" in the sense of raising restrictions on Jewish immigration in order to lead to a Jewish majority for the realization of ultimate aim of the mandate, which he considered to be the creation of a Jewish state, including Palestine and perhaps Transjordan.²

The P.M.C. waived the petition aside stating that "this petition does not fulfill the conditions of admissibility, since it raises claims which are incompatible with the mandate for Palestine."³

In a follow-up petition in 1935, Dr. Weinshal asked the P.M.C. to revise the above resolution. He sought the endorsement of the Commission for ~~his~~ definition of Jewish National Home - "a territory with a Jewish majority among its inhabitants and

¹Ibid., XVII, p. 135.

²Ibid., XXVI, pp. 179-80.

³Ibid., p. 180

with the Status to be granted subsequently to the attainment of such Jewish majority of a self-governing commonwealth."¹ However, the P.M.C. again considered his petition inadmissible on the same grounds as above.

A petition to the same effect was also forwarded by Dr. H. Levi, member of the "Nessiut" (New Zionist Organization) in July 1936. It considered that the Mandates Commission in rejecting the previous petitions from Mr. Weinshal had "made a mistake and stultified itself". Dr. Leuk believed that the mandate should not go on indefinitely and that it should come to an end, although he did not mention any particular time. In such an eventuality he believed that there could only be two alternatives: an Arab State or a Jewish State. Since he did not believe that any argument could support the establishment of an Arab State, he considered the only possibility to be a Jewish State.²

The P.M.C. considered discussion of the above petition "superfluous". According to Mr. Rappard, the rapporteur, there was no need for action by the P.M.C. "since the Government of the Mandatory power, which issued the Balfour Declaration, and the Council, which devised the terms of the mandate, have always been at one in rejecting the interpretation" given by the petitioner.

¹Ibid., XXVIII, pp. 186-87

²Ibid., XXXIV, p. 205.

Mr. Rappard went on to emphasize the subserviance of the Commission to these two bodies "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" for, he considered, "the responsible authors of those public acts are themselves the best judges of their interpretation."¹

2. Specific Issues Within the Mandate

a) Immigration

Jewish Immigration was needed if a Jewish National Home was to be established. Hence the petitioners tended to protest against any measure taken by the mandatory which they believed would limit immigration. Thus one of their main criticisms was directed against the mandatory's² interpretation of the economic absorptive capacity criterion. Further, they complained about the 1930 order of the British administration calling for the temporary slowing down of immigration. Other complaints were directed against the restrictions by the Mandatory of the type of Jewish immigrants, and also against the special facilities granted to Arab workers coming from neighbouring Arab countries.

1) The Temporary Slowing Down of Immigration - Non-Application of the Economic Absorptive Capacity Formula.

Pending the drawing up of a report by Sir John Hope-

¹Ibid., XXXIV, p. 205.

²Ibid.

Simpson, on land settlement, immigration, and development in Palestine, the Mandatory power suspended the undistributed balance of immigration certificates under the 1930 schedule, so as to facilitate his work. Following this measure a flood of Jewish petitions (127 in number, of which 33 were from Zionist sources) poured in to the P.M.C. complaining about the policy of the mandatory. Most petitions emanated from outside Palestine. (See Table 6).

A resolution by the "Misrachi" Zionist Federation of Greece and the Union of Revisionist Zionists considered this measure to be a violation of the letter and the spirit of the mandate which was entrusted to Britain by the League of Nations.¹

A telegram from the Jewish Agency and from various Jewish and Zionist Organizations and Notables of Eastern Galicia called for the immediate revocation of the measure. They introduced the argument that the 1930 order was not necessitated by the economic situation but was undertaken as a result of political considerations.² Thus they were complaining about what they considered to be the non-application of the economic absorptive capacity formula.

A further example of this type of petition is the one sent by Messrs. A. Asscher and Abel Herzbey (from Netherlands)

¹Ibid., XVII, P. 135.

²Ibid., XVII, p. 136.

in 1936 which urged the mandatory power to apply the economic absorptive capacity criterion "without any modification", The petition was sent in answer to rumours which allegedly circulated at the time to the effect that the British Government intended to put a stop to Jewish immigration into Palestine for some time.¹ On the above three petitions the PMC took no action as it believed that they fell "within the general scope of the main question on which the Commission is sending to the Council preliminary opinion requested from it."²

2) British Interpretation of the Economic Absorptive Capacity Formula.

Throughout the period 1925 to 1939 Jewish petitions complained about the too narrow interpretation of the above formula by Britain. Some petitioners even went to the extent of questioning the very criterion itself.

The main premises of their arguments were:

- (i) Violation of Article 6 of the Mandate since the Mandatory Administration was not, according to the petitioners "facilitating Jewish immigration under suitable conditions..." "even though" the rights and position of other sections of the population are not prejudiced.
- (ii) The difficulties experienced by Jews in other countries and hence the need to immigrate to Palestine.³

¹Ibid., XXXII, p. 216.

²Ibid., p. 218. See Supra before mentioned, Chapter III,
p. 14.

³This argument was introduced by Jewish petitioners after 1933.

(iii) The historical rights of the Jewish people in Palestine.

The Hope Simpson Report which suggested the restriction of immigration due to the fear of the Arabs for their economic future was attacked both by the Jewish Agency (May 2nd, 1930)¹ and the General Council (Vaad Leumi) of the Jewish Community of Palestine (June 1931).

The latter stated that it considered "that the report was written with the specific intention of proving that Palestine was overpopulated and that there was no room for additional settlers and that it offered no prospect for the future." The Vaad Leumi regarded the figures quoted by Sir John Hope Simpson "inaccurate" and the conclusions "biased."²

Further, the Vaad Leumi called the attention of the P.M.C. to the fact that restrictions on immigration were still being maintained after the Hope Simpson report was published.³

The United Kingdom Government did not make any comments on the report of Sir John Hope Simpson and the Commission did not take any action on the Memorandum of the Jewish community.⁴

At the same time when Jewish immigration was highest, in 1935, the Jewish Agency complained that the permits granted by the Mandatory to immigrants were lower than the number of

¹Ibid., XVII, p. 128.

²Ibid., XXII, p. 331.

³Ibid., p. 330.

⁴Ibid., XXVI, p. 180.

applicants who could have been absorbed within the economic absorptive capacity of the country.¹ And in 1938 the Jewish Agency complained of the considerable reduction in the number of Jews authorized to immigrate to Palestine. This the petitioner considered to be contrary to the mandate and causing hardship to those Jews who were being driven out of European countries.² Upon considering the above two petitions, the PMC did not make any recommendation to the Council as it tended to agree with the mandatory power that the economic absorptive criterion was not violated.

Some petitions seemed to be questioning the very principle of economic absorptive capacity. In 1934, a petition from Mr. Weinshal, President of the Central Committee of the Union of Zionist Revisionists in Palestine, Haifa, asked the P.M.C. to help to bring about a "radical revision of the principles of administration" with a view to the lifting of the "restriction" on Jewish immigration.³ It is not very clear, however, whether he was aiming at the removal of the formula of the economic absorptive capacity and asking for unlimited immigration. This petition was not considered by the PMC because it "raised claims which were incompatible with the mandate for Palestine."

A further petition, this time from the Consistoire Central des Israelite en Bulgaria (Sofia) described the formula of the economic absorptive capacity as determined by the High

¹Ibid., XXVI., p. 180.

²Ibid., XXXIV, pp. 209-10.

³Ibid., XXVII, p. 204.

Commissioner as an "artificial restriction" of Jewish immigration into Palestine.¹ Was this an attack against the interpretation of the criterion or against the criterion itself? This is not very clear. However, since the petition proceeded to attack the mandatory for "incorrectly" estimating the capacity, it was probably chiefly directed at the interpretation of the formula. The Mandatory power had no observations to make on the petition and the P.M.C. did not consider necessary to make recommendations to the Council on the petition.

A frontal attack on the legality of the economic absorptive capacity criterion was made in the letter dated May 17, 1939, from the President of the Jewish Agency for Palestine, which on the one hand, attacked the British Administration for issuing an insufficient number of immigration permits, and, on the other hand, dealt with the question of whether the economic absorptive capacity could be "legally abandoned." It "proposed" that the question "be submitted to the Permanent Court of International Justice."² It can be seen that on an important question the petitioners sought the advice of the Court rather than the P.M.C. The latter did not consider it necessary to make any particular observation on the memorandum.

3) The Restriction of Immigration Permits to Certain Types of Jewish Immigrants.

In 1933 the Jewish Agency complained of the shortage

¹Ibid., XXVI, pp. 182-83.

²Ibid., XXXVI, p. 264.

of Jewish Immigrants whose occupation was cultivation or building allegedly due to restrictions by the mandatory on the immigration of this type of Jews.¹ In the same year, two petitions from the Council of Waad Adoth Ashkenazim of Jerusalem asked for the issuance of 50 visas for the admission of religious immigrants.²

Complaints by the Jewish Agency about immigration restrictions put on persons belonging to the families of Jews already settled in Palestine were voiced in 1935 and 1936.³ It asked for the facilitation of immigration of such persons. Further, in 1936, the Jewish Agency asked for the facilitation of the issuance of immigration permits for those Jews leaving Germany.⁴ And in 1939 the Agency voiced complaints to the P.M.C. that the Mandatory's alleged restriction of the immigration of workers and capitalists into Palestine would help in overcoming the financial crisis.⁵ In the case of all these petitions, P.M.C. did not consider it necessary to make any recommendations to the Council.

4) The Special Facilities Granted to Arab Workers from Neighbouring Arab Countries.

The Brit Kibbutz, Galuiot (Union of Retiring Exiles) in Palestine complained about the Immigration Ordinance of 1933

¹ Ibid., XXV, p. 137.

² Ibid., pp. 132-34.

³ Ibid., XXIX, pp. 193-94; and XXXIV, p. 210.

⁴ Ibid., XXIX, pp. 193-94.

⁵ Ibid., XXXIV, p. 210.

for not giving priorities to Jewish immigrants and for allegedly tendering "special facilities" to Transjordanians who were allowed to enter Palestine without passports or similar papers. The petitioners contended that this provision would open the door to other Arabs and would lead to the violation of "the rights and position of other sections of the population."¹

A petition from the Consistoire Central des Israelites en Bulgarie (Sofia), arriving in the same year as the above, reiterated the same protests. It wrote about what it considered to be a "mass invasion of Arab workers" and contrasted it to what it termed the "tragic situation" in the world for the Jews who were trying to find a sanctuary in Palestine.²

b) Land

Like immigration, the acquisition of land was one of the main pre-requisites for the establishment of the Jewish National Home. Hence, petitions were directed against all measures of the Mandatory power to restrict the acquisition of land. They tended to emphasize an active rather than a passive role by the Mandatory power in the direction of the realization of Jewish aims.

The main premises of the Jewish arguments were:

- (i) Article 6 of the Mandate Instrument which stated that "the administration of Palestine, while ensuring the rights and position of other sections of the population are not prejudiced... shall

¹Ibid., XXVI, p. 181.

²Ibid., p. 183.

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.

- (ii) The benefit that would, according to the petitions, accrue to the country as a whole from Jewish settlements.

1) Active Promotion by the Mandatory of Jewish Settlement on the Land.

In 1925, a letter by the Jewish Agency called the attention of the P.M.C. to the fact that Article 6 of the Palestine was "still substantially inoperative."¹ The P.M.C. in its observations to the Council stated that it could not recommend the allocation of land to Jewish immigrants which was already occupied by the local population.

The same complaint was voiced by the Zionist Organization in 1926, when it put forward its demands for a more active role by the mandatory in the establishment of Jewish settlements. It stated that the Organization had taken note of the letter ~~addressed~~ addressed by His Majesty's Government to the Secretary General of the League of Nations, dated October 19, 1925 and published in Minutes of the Seventh Session of the Commission, where the mandatory had suggested that Article 6 of the mandate instrument did not conceive of the Palestine Government as playing an entirely passive role, but that, never-

¹Ibid. . VII, p. 184.

theless, it was of the opinion that "this is a matter in which the Government might reasonably expect the Zionist Organization to take the initiative." (Underlines by the writer). In order to fulfill the above, the Zionist asked the Government to provide it with information about the limits of state lands¹ and to grant it preferential treatment in the acquisition of lands, such as the acceptance, of payment for land, at least in part, through a limited number of annual instalments.²

Referring to the Beisan Land Agreement of 1921 which allotted state lands to the Arabs, the Zionist Organization considered the allotments to be in excess of the requirements of the Arabs and hence requested facilities for taking over the rights and obligations of the beneficiaries of the 1921 Agreement. The Organization alleged that voluntary offer of land for sale by the Arabs would otherwise result and would eventually lead to land speculation which would be detrimental to the country as a whole in the long run.³ The Commission was of the opinion that the "mandatory power acted prudently in not precipitating any action and endeavouring avoid any serious conflict between the two sections of the population."⁴

¹This question was repeated in the subsequent petitions from the Jewish Agency in connection with the Survey of land that was to be undertaken by the mandatory but was delayed.

²P.M.C., Minutes XI, pp. 212-13.

³Ibid., IX, pp. 198-99.

⁴Ibid.

The same request was reported in 1928 by the Zionist Organization which also complained in general about the question of the acquisition of state lands.¹ The Commission while it was satisfied with the efforts made by the mandatory power in this respect, repeated the recommendation made in its Ninth Session that the mandatory should exercise every effort to hasten the survey, the completion of which "would be of utmost importance for the general development of Palestine and in particular for the establishment of a Jewish National Home."²

2) The Alleged Restrictive Land Measures (Actual or Proposed) of the Mandatory Power.

In 1928, the Zionist Organization attacked the Hope Simpson Report for the restrictions it suggested on the purchase of land by the Zionists.³ The same view was expressed in 1931 by the General Council (Vaad Leumi) of the Jewish Community of Palestine.⁴ As the mandatory government refrained from making any comments, the Commission did not make any recommendations to the Council.

A memorandum by the Jewish Agency for Palestine, in 1931, expressed misgivings about the Agrarian Law which tended to impede the intensive development of large tracts of the

¹Ibid., XIII, 219-20.

²Ibid.

³Ibid., XVII, p. 128.

⁴Ibid., XXII, 330-31.

country.¹ In view of the observations of the Mandatory Power to encourage the establishment of the Jewish National Home, the Commission did not make any recommendation to the Council. The Jewish Agency, furthermore, in 1936, expressed its concern about the sale of "subsistence areas" to the Jews and restricting sales in other areas.

3) Industrial Development and Commerce

The petitions pressed the mandatory power toward a more active participation in the promotion of Jewish industries and the furthering of trade.

In 1926 the Council of Jews of Palestine appealed to the P.M.C. to support its claim for "Systematic State Assistance" in industrial development. It complained about the fact that land for the erections of factories was not given free, about taxation imposed by the government on land and buildings and about the customs duties levied which did not protect the infant industries.² The P.M.C. made no recommendations to the Council on this petition.

When the Mandatory power had already granted subsidies to the industries, in 1934, the Jewish Agency considered the help to be "Still inadequate."³

In 1938, the Jewish Agency appealed to the British Administration through the P.M.C. for credit facilities in

¹Ibid., p. 344.

²Ibid., IX, pp. 208-209.

³Ibid., XXV, pp. 137.

industry and agriculture.¹

A complaint was voiced in 1939 to the P.M.C. by the Jewish Agency about the Mandatory's lack of assistance in negotiating "certain loans."² Concerning above three petitions the P.M.C. made no recommendation.

In the question of commerce the petitions tended to center around Article 18 of the Palestine Mandate.³

In 1936, Mr. Mosche Smilansky, President of the Jewish Farmer's Federation of Palestine and Mr. Tolkowsky, General Manager of the Jaffo-Citrus Exchange transmitted a petition to the P.M.C. in which they drew its attention to difficulties resulting from the application of Article 18 of the Mandate. They argued that so long as the Mandate precluded special agreements with particular countries, the Citrus fruits of Palestine would not be able to find a market. This would be aggravated, they argued, by the fact that economic equality would have to be granted without reciprocity. They suggested the adoption of a system in regard to imports tariffs which

¹Ibid., XXXIV, pp. 209.

²Ibid., XXXVI, p.265. The petition does not specify the loan.

³This article dealt with economic equality of members of the League of Nations in matters of trade with Palestine. "The Mandatory shall see that there is no discrimination in Palestine against the nationals of any state member of the League of Nations (including companies incorporated under its laws) as compared with those concerning taxation, commerce, or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircrafts. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said states, and there shall be freedom of transit under equitable conditions across the Mandated area."

would be divided into maximum and minimum rates and also the introduction of a quota system.¹

The conclusion of agreements with neighbouring countries to protect the Jewish production was requested by the Jewish Agency in 1938.² The P.M.C. did not make any recommendations to the Council on this topic.

In 1939, the Jewish Agency called the attention of the P.M.C. to the need for the amendment of Article 18 of the Mandate, which the Agency believed to be detrimental to Palestinian commerce, agricultural, industrial or commercial. Further, it called for the alteration of commercial agreements with Syria and Lebanon.³ Thus the petitioner was envisaging the amendment of the Mandate and was appealing to the P.M.C. to initiate the process. However, the Commission did not take action on this specific point.

d) Buraq (Wailing Wall) and 1936 Disturbances.

Following the Wailing Wall incident, from 1927 to 1929, about 124 Jewish petitions were received by the P.M.C. from outside Palestine and 3 from inside.

The main argument of the Jews on the matter was put forward by a petition dated October 12, 1928 by the Executive

¹Ibid., XXXII, pp. 218-19.

²Ibid., XXXIV, pp. 209-10.

³Ibid., XXXVI, p. 265.

of the Zionist Organization. It alleged that the status quo was not violated by the Jews since it considered the land in from the Wailing Wall a land for prayer of Jews for generations, not having any religious significance for any other community. Article 13 of the Mandate Instrument was invoked.

The petition took task both the League of Nations and the Mandatory:¹

... What happened was unworthy of both the League of Nations and of the Mandatory Power under whose joint auspices the administration of Palestine is conducted.

However, the same petition appealed to them to use their good offices to ensure that the demand put forward by the Zionists for "free exercise of worship" without external interference were met.

The petition made the point that even if there were a formal departure from the Status quo this would not justify the use of police for "aggressive action"² - reference presumably to government action against Jewish rioters at the Wall.

The Permanent Mandates Commission in its report to the Council expressed regret that the incidents had taken place. However, it noted "with great satisfaction that the Palestine Government has already approached both parties with a view to facilitating an agreement." It hoped that in this way the

¹Ibid.,

²Ibid., XIV, pp. 249-50.

mandatory power would allay public feeling and thus neither the Arabs nor the Jews would provoke public disturbances.¹ It can be seen that the Commission did not specifically refer to the complaints of the petitioners.

In 1930, the "Misrache" Zionist Federation and the Union of the Revisionist Zionists reported to the P.M.C. that the mandatory had not been able to safeguard the lives and properties of the Jews in 1929. They specifically accused the mandatory of not acting immediately to stop bloodshed.² The Commission did not consider this petition. No specific reason was given for this action.

Two years later, the General Council (Vaad Leumi) of the Jewish community referring to the reorganization of the police, maintained that the protection of the Jewish community was still not assured.³ As the details of this were discussed in the Twentieth Session of the P.M.C. in 1931 and the Mandatories action and future plans were found satisfactory, the PMC did not make any recommendations on this petition to the Council.⁴

In 1936, following the disturbances, Dr. Weinshal, wrote to the P.M.C. that although the Palestine Administration was warned about the disturbances, it took no preventive measures. He accused the British Administration for its allegedly conci-

¹Ibid., XIV, p. 276.

²Ibid., XVII, p. 135.

³Ibid., XXII, p. 330.

⁴Ibid., p. 331.

liatory attitude toward the Arabs.¹ Mr. Daniel Sirkis, President of the Committee of the Jewish Community of Tel-Aviv and Jaffa attributed the mandatory government's alleged inaction to a memorandum submitted by Arab officials.

He put the blame on the "excessive number of Arabs in the civil administration and the police." He, further, asserted that these officials had helped in the collection of Arab strike funds by taking part in the propaganda campaign. He demanded that the mandatory government take disciplinary action against the signatories of the memorandum "with a view to their dismissal."² The P.M.C. made no recommendations on these two petitions since it dealt with the 1936 disturbances in its 32nd session in 1937.³

In the same year 9 petitions were received from outside Palestine (5 of which from Zionist sources) by the P.M.C. requesting the intervention for the cause of Jews in Palestine without giving particulars.⁴

e) Religion

Some petitions dealt with general religions questions whereas others dwelt on the internal religions of the Jewish

¹Ibid., XXXVI, p. 215.

²Ibid., p. 216.

³This memorandum was submitted to the High Commissioner by Senior Arab Government Officials and judges on June 30, 1936. It condemned the government policy in not implementing the Legislative Council proposals and stated that Arab doubts to the Mandatory's good faith were justified. See Supra Chapter III, for the observations of the P.M.C. on 1936 disturbances.

⁴Ibid., XXX, 199-200.

Community.

The Council of Jews of Palestine complained in 1926 that the British Administrative routine often overlooked the religious needs of the Jews, but did not specify incidents.¹

Four petitions (two from the General Council of Jews of Palestine, one from the Chief Rabbinate of Palestine and one from Agudath Israel) in 1933 demanded government grants for the Rabbinical courts and complained of the in-equality of treatment, since, according to them, the Moslem courts received such grants. They invoked Article 15 of the Palestine Mandate in this regard.²

Several petitions were received from Agudath Israel and Shkenazi Community demanding their recognition as a separate independent community - distinct from other Jews - and their right to keep independent religious courts. However, the Rabbis of the recognized Jewish Community appealed to the P.M.C. against this request by Agudath Israel.³

Both the Arabs and Jews appealed to the Permanent Mandates Commission. As far as the Arab petitioners were concerned in the early 1920's there was a general feeling of hostility toward the League for its acceptance of the Balfour Declaration. The Arab Executive Committee of the Palestine

¹P.M.C. Minutes IX, p. 212.

²Ibid., XXV, pp. 130-32. Article 15 stated that: "No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion, or language." League of Nations, Mandate for Palestine, Op.Cit.,

³Ibid., XXVIII, p. 187.

Arab Congress wrote in this connection: _

An explanation why the League of Nations, has unduly neglected a dear undertaking (Hussein-McMahon) that coincides with its Covenant and unduly adopted another (the Balfour Declaration) which conflicts with its Covenant when both were made for one and the same country by one and the same power, would be most helpful.¹

However, the Arabs turned to the League and sent petitions to the P.M.C. because they had no alternative institution to appeal to.

In connection with the specific issues such as land, immigration, and self-government, they tended to regard the P.M.C. as an initiator of measures favourable to the Arabs.

At the time of the Wailing Wall Incident, the Arabs imputed a large role to the P.M.C. - i.e. a role in the direction of independence from the mandatory and the Jews - The P.M.C. was asked to uphold the Status quo against the forces of change. Further, the petitioners regarded the PMC as a public opinion forum.

However, at the time of the crisis (1933-36) some petitions showed hostility towards the P.M.C. or despair that an appeal to it would bring about a redress of their grievances.

The majority of the petitions received during these two crisis periods emanated from outside Palestine. The number of

¹Ibid., V, p. 120.

petitions received during the second crisis period were much less in number than in the first period.

In some cases the P.M.C. was regarded a court of appeal. Its limitations in this field were initially recognized - only one side of the conflicting parties, the mandatory was to be heard by the members of the Commission. In 1935, Mr. Hussaini severely criticised the procedure. However the fact that improvements were suggested by the petitioners - such as the proposal for on-the-spot visits by the Commission - shows that the petitioners still believed in the Commission's possible role as a court of appeal.

The P.M.C. rejected the Arab petitions so long as they questioned the mandate, and although the Commission considered the petitions dealing with specific issues such as immigration, land, and self-government, it suggested no action and left the matter to be settled by Britain.

As far as the Jewish petitions were concerned, the petitioners were aiming at the establishment of the Jewish National Home under the mandate system, they considered the P.M.C. as a promoter of their wishes.

It is true that in 1925, the Zionist Organization, acting in the capacity of the Jewish Agency, expressed regret about the observations of the P.M.C. in its 1924 Report to the Council

regarding Jewish immigration, but its faith in the P.M.C. seems not to have been shaken for it attributed this report to lack of adequate information. Hence it decided to overcome this defect by supplying additional information in the form of annual memoranda on the development of the Jewish National Home. And later this practice was continued by the Jewish Agency.

In 1926, the Council of Jews expressed its confidence in the P.M.C. and appealed to the latter's "moral and political" support.¹

The role of the P.M.C. was conceived mainly to be that of a promoter of the Jewish National Home. This can be detected from the previously mentioned petitions on immigration, land, and industrial development.

The P.M.C. was further considered to be a court of appeal, a tribunal. In the Wailing Wall Incident the petitions showed a disappointment that the P.M.C. and the mandatory could not have prevented the incident especially in view of the fact that during the 1925 events at the Wall, the Zionist Organization had made suggestions to that effect. But the fact that in 1929 the Zionist Organization was appealing to the P.M.C. to recognize the rights of free worship shows that its faith in the P.M.C. was not altogether shaken.

In 1939, the fact that the Zionist Organization asked the

¹Ibid., IX, p. 214.

P.M.C. to amend Article 18 of the mandate shows that it did not conceive the P.M.C.'s role restricted.

Hostility was thus not exposed toward the P.M.C. But the number of petitions received in 1936 was much lower than the number received during the disturbances of 1929. This shows a lack of confidence in the P.M.C.

In the latter half of the 1930's the number of petitions from Zionist Revisionists increased. They demanded the creation of a Jewish State and were definitely hostile to the P.M.C., especially in its procedure regarding the rejection of petitions.

It is surprising that so many petitions were sent to the P.M.C. in view of the fact that in the great majority of cases, the Commission made no recommendations, on the demands of the petitions, to the Council, since it trusted that, the mandatory would take steps or had already taken step to remedy the situation and since it upheld the view of the mandatory herself in most cases.

CHAPTER VI

ATTITUDE OF THE MANDATORY TO THE P.M.C.

The effectiveness of the P.M.C. in the supervision of the Palestine Mandate would be determined in the last analysis by the role that the Mandatory power would attribute to the Commission. It is important in this connection to study the extent to which the British Administration followed the recommendations of the P.M.C. For the more it did so, the nearer it would have placed the Commission's role to the maximum terminal of the moral influence continuum - discussed in Chapter I. Further a study of the annual reports and the accredited representatives that the Mandatory sent to the P.M.C. would suggest the value and respect she placed on the Commission.

A. Britain and the Recommendations of the P.M.C.

This will be studied mainly in terms of three issues - self-government, land, and immigration - and in connection with the Wailing Wall Incident.

1. Self-Government

On the question of self-government both at the national and local level it may be said that in general, Britain initiated all the policies.

As for the National level by the end of 1923, before the first discussion of the Annual Report of the Mandatory on Palestine by the P.M.C., Britain had already made four attempts to associate the Arab community with the Administration of Palestine - the Advisory Council, the Legislative Council, the enlarged Advisory Council and the Arab Agency. The Advisory Council was set up in October 1920 by Sir Herbert Samuel, High Commissioner of Palestine. It consisted of ten British Officials and ten Palestinians, of whom seven were Arabs (four Moslem and three Christians), and three were Jews. It was not an elected body. It remained in being for two years.¹ Then in August 1922, the High Commissioner propounded the setting up of a Legislative Council to substitute for the Advisory Council. However this plan was abandoned when the great majority of the Arabs boycotted the elections, on account that the proposed Council, did not contain a clear majority of Arabs.² Whereupon the High Commissioner decided to reconstitute an Advisory Council on a non-elective basis having the same representation as the proposed Legislative Council. This too met the same fate since under pressure from the Arab Executive seven out of ten members appointed by the High Commissioner withdrew their acceptances. A further attempt by the mandatory to set up an Arab Agency in 1923,

¹Government of Palestine, Op.Cit., pp. 17-22.

²J. Stoyanovsky, The Mandate for Palestine, (London: Longmans, Green and Co., 1928), pp. 176-77.

also met with the opposition of the Arabs on the ground that this measure would place them on an equal footing with the Jews, who had a Jewish Agency, within their own country.¹ The above mentioned measures and difficulties encountered were mentioned by the British High Commissioner to the Commission in 1924. And when (in 1925 at the Fifth Session of the P.M.C.) Mr. Van Rees, member of the Commission asked whether "the British Government contemplated a line of policy which might lead to a definite solution of this grave problem," the British representative, Mr. Ormsby-Gore replied that "ready-made systems of democracy were not workable in a country of such diverse races and institutions. He asked the Commission not to be disappointed at the slowness of the progress made... He hoped the Commission would not pass the British Government to move too fast in that direction."² Again in 1927, a question to the same effect this time put by Mr. Palacios, the British representative gave a very general answer:

The Mandatory Power is fully conscious of its obligations under Article Two of the Mandate and she is willing to accomplish them as soon as circumstances permit it."

He did not specify any time limit.³

It was under no pressure from the P.M.C. in October 1930 that the Mandatory Power decided that "It is the considered opinion of His Majesty's Government that the time has now come when the

¹Royal Institute for International Affairs, Op.Cit., pp. 41-42.

²P.M.C., V, p. 105.

³Ibid., XI, p. 117.

important question of the establishment of a measure of self-government in Palestine must, in the interests of the community as a whole, be taken in hand without further delay."¹ Britain simply informed the P.M.C. of its intended future policy - the setting up of a Legislative Council.

When questioned about the number of Arabs, Christians and Jews who were to be elected to the proposed Legislative Council, the British representative could not give supplementary information, since the project was still only in the stage of discussions within His Majesty's Government.² In 1932, the High Commissioner for Palestine Sir Arthur Wauchope expressed Britain's determination to carry out the proposal:-

As regards the establishment of a Legislative Council, the intention of the Government remains unchanged, and we shall take steps towards the formation of a Legislative Council when the new Local Government Ordinance which is now in preparation has been brought into working order.³

The statements he made show that the mandatory would not adhere to the view of individual members of P.M.C. such as Mr. Van Rees who pressed for a slow development of self-governing institutions ensuring the cooperation of both sections of the population - thus although Sir Arthur Wauchope declared that "Proposals for the constitution of a Legislative Council would v..

¹Great Britain, Colonial Office, Report on the Administration of Palestine and Jordan (London: H.M.S.O., 1930) p. 25.

²Ibid., XX, 81-82.

³Ibid., XXII, pp. 82.

.... be discussed with the leaders of the parties concerned:¹

He also stated that " If these efforts (of reconciliation between Arabs and Jews) prove of no avail, then the Government must, regardless of criticism, carry out whatever policy it considers best in the interests of the people as a whole and in accordance with the mandate."²

In December 1934, the High Commissioner put forward a new plan for the Legislative Council with a large elected majority - ultimate control however was to be in hands of the High Commissioner himself since he could veto any legislation. The views of Mr. Van Rees were not adhered to. As seen in Chapter III he had stated that a majority not controlling the executive would be a source of friction. The 28 members were to be made up of 5 officials, 2 commercial representatives, 8 elected and 3 nominated Moslems, 3 elected and 4 nominated Jews, and 1 elected and 2 nominated Christians. The Council was to have an impartial president from outside Palestine who would neither debate nor vote.³ However this plan did not materialize. In March 25, 1936, the Legislative Council plan failed to arouse a favourable response at the House of Commons.

It is interesting to note that two of the main arguments presented against it were similar to the view presented by Mr. Van Rees of the P.M.C.

¹P.M.C., XXII, p. 86.

²Ibid., p. 82.

³Royal Institute of International Affairs, Op. Cit., p. 87.

He stated that the proposed Legislative Council would not succeed on two accounts: the Arabs and Jews were not mature enough and they had not reconciled. Presenting the first argument, Mr. Churchill reminded the house that the British Government had in the past informed the P.M.C. that it would proceed slowly toward national self-government in Palestine - i.e. after the satisfactory functioning of municipal and local Councils.¹

Mr. Williams believed that the setting up of the Legislative Council had to be preceded by education of the masses. Captain Cazalet believed that the racial conflict would be reflected in the Council.²

Whereas Mr. Van Rees had only mentioned in general terms that Arab and Jews could not cooperate at the moment, the second and more important argument at the House of Commons centered around the possible domination of the Arab majority over the Jewish minority in the proposed Legislative Council. The Government abandoned the proposal in February 1937.

It cannot be said that the P.M.C. influenced British policy as far as the Legislative Council proposal was concerned. Britain had initiated the plan in order to appease the Arabs.³ Further in view of the fact of the unanimous Jewish condemnation

¹Great Britain, Hansard's Parliamentary Debates (1936) Vol. 310, Col. 1171.

²Ibid., Col. 1140.

³Bissimo, Saadi. La Politique Anglo-Sioniste en Palestine Etude Juridique, Politique et Critique du Sionisme et des Mandat Anglais, (Paris: Rodstein, 1938), p. 225.

of the policy and their heated activities it could not be said that it was the Commission, through Mr. Van Rees and others, which influenced British policy. The Commission may have been a factor but it was not the factor. In fact in the House, in 1938, Sir Ernest Bennet declared that

In the face of Zionist opposition (the Government) capitulated and abandoned once more the considered and mature decision of a British cabinet.¹

As far as local self-government was concerned, it was under no pressure from the P.M.C. that Britain passed the Municipal Franchise Ordinance in 1926.² The system however did not satisfy the Arabs.

In view of their protests regarding local institutions which were not wholly elective, Britain felt she had to re-organize the 1925 Municipal Franchise Ordinance. The backing of an individual member of the P.M.C., Mr. Palacios, may have given the Arabs an added moral influence.

In 1931 Britain reported that the local government Bill was still under consideration.³

2. Immigration

It was the Mandatory power that had put the ceiling to Jewish immigration. Thus the Churchill Memorandum of June 3, 1922 had stated that for the fulfilment of the policy of Jewish

¹Great Britain, Hansard's.... Vol. 341 (1938), col.2043.

²Maurice Moch, Le Mandat Britannique en Palestine; (Paris: Albert Mechelinck, 1932), pp. 264-65.

³Great Britain, Report on the Administration of Palestine, 1931, p. 16.

National Home:-

It is necessary that the Jewish community in Palestine should be able to increase its numbers by immigration. This immigration cannot be so great in volume as to exceed whatever may be the economic capacity of the country at the time to absorb new arrivals. It is essential to ensure that the immigrants should not be a burden upon the people of Palestine as a whole, and that they should not deprive any section of the present population of their employment.¹

This was incorporated in the first report that Britain submitted to the P.M.C. on its administration of Palestine.²

Following doubts expressed in 1925 the Chairman of the Commission, Mr. Theodoli as to whether Britain was adhering to this formula, Mr. Ormsby-Gore reassured him that immigration was being kept within limits.³ However when Mr. Theodoli reiterated his criticism in 1926, Colonel Symes, British accredited representative, said that "it was extremely difficult to determine the exact capacity of the country at any given time to absorb immigrants."⁴ And the annual report of 1925, submitted to the P.M.C. in 1926, brought to the attention of the Commission the difficulties of absorbing immigrants from all walks of life into the economy of Palestine.⁵

¹Great Britain, Palestine Correspondence with the Palestine Arab Delegation and the Zionist Organization (British White Paper, cmd 1700), (London: His Majesty's Stationery Office, 1922), pp. 17-21.

²P.M.C., V, pp. 168-69.

³Ibid., pp. 103-104.

⁴Ibid., Vol 9, p. 166.

⁵Great Britain, Report on the Administration of Palestine,... 1925, p. 7.

Immigration was increasing. It reached a peak in 1925 when 33,801¹ immigrants were admitted. An economic depression was setting in Palestine. As the Commission as a whole had not criticized British policy it may not be said that Britain disregarded the Commission's advice. It was not until the deepening of the depression in 1928 that the British accredited representative pleaded guilty before the P.M.C. for having allowed over 33,000 immigrants instead of 25,000. Thus Lt. Colonel Sir Steward Symes declared that:

Undoubtedly there had been too much optimism both on the part of the Administration and on the part of the Jews. The economic situation had been brought to be more promising than actually proved to be the case.²

He promised that Britain would maintain "careful restrictions on immigration during the next few years."³

When in 1930 following the Wailing Wall Incident Britain undertook to conduct a study of the problem of immigration it merely informed the Commission of its decision. It further asserted that the slowing down of immigration was just a temporary measure pending the report of Sir John Hope-Simpson.⁴ The P.M.C. played no part whatever in the dispatch of the Shaw and the Hope-Simpson Commissions of enquiry into Palestine.

¹Royal Institute of International Affairs, p. 63.

²P.M.C., XIII, p. 50.

³Ibid.

⁴Ibid., XVII, p. 123.

Although some members of the Commission - such as Lord Lugard and Mr. Rappard - had urged Britain not to follow a too liberal immigration policy in 1932, and although the Commission had issued a mild criticism in this regard in 1934, Britain allowed Jewish immigration to reach a peak of 61,854 in 1935.¹

The Arabs had put the suspension of immigration as a condition for sending representatives to the Royal Commission, headed by Lord Peel, which was to investigate as to the causes of unrest in Palestine at the time. The Jews had asked for a large quota of immigrants. It appears that Britain slowed down immigration as a compromise solution² - the influence of the P.M.C. appears to be minimal.

Before the P.M.C. drew the attention of the Mandatory to illegal Jewish immigration, the mandatory power in her annual report of 1931 stated that steps were being taken to regularize the position of persons who had entered Palestine as travellers or without permission.³

3. Land

Until 1930, the P.M.C. had approved of British land policy.

In 1930 when the P.M.C. criticized the Mandatory for

¹Royal Institute of International Affairs, Op.Cit., p.63.

²Esco Foundation for Palestine, Palestine; A Study of Jewish, Arab, and British Policies; (New Haven: Yale University Press, 1947), II, p. 797-98.

³Great Britain, Report on the Administration of Palestine....
p. 21.

not having taken an active part in the close settlement of Jews on land, the Mandatory stated:

In taking this view, the Mandates Commission appear to have accepted the more extreme Jewish contentions regarding the meaning and the object of the mandate. The duty imposed on the mandatory Power is not to establish the Jewish National Home in Palestine. This is the function of¹ the Jews themselves, directed by the Jewish Agency.

And when again 1930, the P.M.C. charged that the Mandatory had failed in its obligations vis-a-vis the Arabs by neglect of agricultural and other development schemes, Britain declared that her resources were limited and that her consistent aim in the past had been "to emancipate as soon as possible such territories from dependence upon grants-in-aid from the British Exchequer."²

It was not as a result of pressure from the P.M.C. that Britain issued the letter from MacDonald to Weizmann installing a more favourable policy toward the Jews than had been provided for in the Hope-Simpson Report or the White Paper of 1930.

It is true that the Commission, as seen above had urged Britain to adopt a land policy more favourable to the Jews, but since it had not met after the issuance of the White Paper of 1930, it could not have been the cause for the reversal of policy.

Rather the change of policy appears to have been to Zionist pressure at London.³

¹P.M.C., XVII, p. 152.

²Ibid., XVII, p. 152.

³Royal Institute of International Affairs, Op.Cit., pp. 82-83. See also Esco Foundation for Palestine, Op.Cit., pp.656-57.

Mr. Van Rees congratulated Britain on her new policy. He understood that the development scheme must, to a certain extent, be inspired, not only by economic, but also by political considerations.¹

Whereupon, the British representative Dr. Drummond Shiels, replied that "he was not aware of having made such a statement. The Government was hoping on the contrary, to escape political difficulties and to proceed on economic lines."²

In an answer to a question by Mr. Orts concerning the Land Development Plan under the White Paper and the British Prime Minister's letter to Weizmann, Dr. Shiels declared that the first object of the scheme was the replacement of landless Arabs who had been dispossessed as a result of Jewish colonisation.³

4. Wailing Wall Incident

The Mandatory Power defended the Shaw Commission Report on the points where it was criticized by the P.M.C.

The Shaw Commission had declared that the outbreak of violence "was not premeditated" and the P.M.C. had disagreed with it on this point. Britain points to the fact that the Shaw Commission had arrived at its conclusions from first hand information whereas the P.M.C. had based its conclusions on "certain statements made by the Shaw Commission themselves in a variety

¹P.M.C., XX, p. 75.

²Ibid.

³Ibid., p. 89.

of contexts."¹

The Mandates Commission further had argued that the Shaw Commission were wrong in holding that the outbreak was not an outbreak against British authority. On this point too the Mandatory power defended the Shaw Commission report by stating that during the disturbances, no attack was made or attempted on the local representatives of British authority.²

On the question of the inadequacy of the armed forces at the disposal of the local administration, the Mandatory agreed with the P.M.C. but they blamed the Commission for not drawing Britain's attention to the fact in the session just preceding the outbreaks.³

Britain informed the P.M.C. that she would take steps to remedy the inadequacy of the Intelligence Service - however she pointed that she had felt this before the P.M.C. drew her attention to it.⁴

The relation between the Commission and the Mandatory after 1936 will be discussed in the next chapter.

It may be seen from the above discussion that Britain was in general the initiator of policy. In this she was guided by political considerations rather than the recommendations or criticisms of the Commission.

¹Ibid., XVII, p. 150.

²Ibid., p. 151.

³Ibid., p. 152.

⁴Ibid., p. 151

B. The Importance The Mandatory Power Attached to the Role of the P.M.C. in Palestine

Another way of gauging the attitude of the Mandatory Power to the role of the P.M.C. in Palestine would be to study in general the importance Britain attached to the meetings of the P.M.C. The more respect it showed toward the Commission, the more this action would show the potential power it conceived the P.M.C. to have.

1. The Type of British Representatives to the Commission

A glance at the Table 5, which shows the positions of the chief accredited representatives¹, that Britain sent to the P.M.C., reveals that the Mandatory Power did attach importance to the meetings of the Commission and hence to the latter's role in Palestine. Thrice Britain sent High Commissioners of Palestine. Sir Herbert Samuel presented the first annual report of the civil administration of Palestine to the P.M.C.; Sir John Chancellor attended the meeting of the Commission just following the Wailing Wall disturbances; Sir Arthur Wauchope after his first year in office considered it important to meet the members of the P.M.C. and expound his views on the Palestine Problem. He declared:²

I welcome the opportunity of attending the Permanent Mandates Commission in person for two reasons. First, I felt my presence here, after my first year of office as High Commissioner of Palestine and Transjordan, was

¹Britain usually sent one chief accredited representative and an assistant. However at important sessions up to 4 assistants were sent - for example at the 1939 session.

²P.M.C., XXII, pp. 79-80. (Underlines by the writer).

a fit and proper mark of respect to you, Sir, the Chairman, and to the Members of the Permanent Mandates Commission. Secondly, I have made it my business during the past year to tour through every district of the country.... Consequently, I thought it might be of some interest to you if I were to give you a few impressions which I have formed during my first year of office of the general conditions and major problems of Palestine and Trans-Jordan.

For the more important meetings, such as the extraordinary sessions of 1930 and 1937, the Mandatory Power preferred to send as her chief accredited representative a high ranking official from the central government in London. For the rest of the meetings it was usually the Chief Secretary to the Palestine Government, an expert on the Administration, who represented Britain at the Commission's meetings.

TABLE 5

CHIEF REPRESENTATIVES OF THE MANDATORY
POWER TO THE P.M.C.

No. of Session	Date	Representative of Central British Govt.	Representative of Palestine Administration
			<u>High Commissioner</u> <u>Administrators</u>
5	1924		Sir Herbert Samuel
7	1925	W.G. Ormsby-Gore (Under-Secretary of State for the Colo- nites)	
9	1926		Lieut.Col. Symes (Chief Secretary to the Govt. of Palestine)
11	1927	Sir John Shuckburgh (Asst. Under-Secretary of State for the Colonies)	
13	1928		Lieut.Col. Symes
15	1929		Sir John Chancellor
17	1930	Dr. T. Drummond Shiels (Parliamentary Under- Secretary of State for the Colonies)	
19	1931	Dr. T. Drummond Shiels	
21	1932		Sir Arthur Wauchope
23	1933		Mr. M.A. Young (Chief Secretary to the Palestine Govt.)
25	1934		Mr. J.H. Hall (Chief Secretary to the Govt. of Palestine)
27	1935		Mr. S. Moody (Asst. Chief Secretary to the Govt. of Palestine)
29	1936		Mr. H.H. Trusted (Attorney-General to the Govt. of Palestine).

TABLE 5

CHIEF REPRESENTATIVES OF THE MANDATORY
POWER TO THE F.M.C.

No. of Session	Date	Representative of Central British Govt.	Representative of Palestine Administration	
			<u>High Commissioner</u>	<u>Administrators</u>
5	1924		Sir Herbert Samuel	
7	1925	W.G. Ormsby-Gore (Under-Secretary of State for the Colo- nites)		
9	1926			Lieut.Col. Symes (Chief Secretary to the Govt. of Palestine)
11	1927	Sir John Shuckburgh (Asst. Under-Secretary of State for the Colonies)		
13	1928			Lieut.Col. Symes
15	1929		Sir John Chancellor	
17	1930	Dr. T. Drummond Shiels (Parliamentary Under- Secretary of State for the Colonies)		
20	1931	Dr. T. Drummond Shiels		
22	1932		Sir Arthur Wauchope	
23	1933			Mr. M.A. Young (Chief Secretary to the Palestine Govt.)
25	1934			Mr. J.H. Hall (Chief Secretary to the Govt. of Palestine)
27	1935			Mr. S. Moody (Asst Chief Secretary to the Govt. of Palestine)
29	1936			Mr. H.H. Trusted (Attorney-General to the Govt. of Palestine.)

No. of Session	Date	Representative of Central British Govt.	Representative of Palestine Administration
			<u>High Commissioner Administrators</u>
32	1937	Mr. W. Ormsby-Gore (Secretary of State for the Colonies)	
34	1938	Sir John Shuckburgh (Deputy Under-Secretary of State for the Colonies)	
36	1939	Right Honourable Malcolm MacDonald (Secretary of State for the Colonies)	

2. Annual Reports

The annual reports of the Mandatory power tended to become more comprehensive as the years passed. They tended to include more subjects and be more detailed.

At first, from 1925 - 1930, the reports covered the following major topics: finance, customs, excise and trade, legal affairs, education, health, civil and military forces, posts, telegraphs and telephones, agriculture, forests and fisheries, lands, surveys, public works, railways, immigration, antiquities, achievements of central town planning, commission, recommendations of the Geological Adviser, Publications. Such important questions as autonomous administration, nationality, freedom of conscience were just mentioned in a few lines in a section entitled "Answers to the Questionnaire on the Administration of Palestine." However, after 1930 major sections were allotted to Jewish National Home, Autonomous Administration, Jewish Agency, Nationality, Judicial System, Economic equality, Holy Places, Freedom of Conscience, International Conventions, Official Languages, Holy Days, Labour, Trade in and Manufacture of Drugs, Demographic statistics.¹

The Mandatory power tended in general to comply with the wishes of the P.M.C. when it came to question of more detailed statistical information. Starting from 1926 statistics on immigration, religion, race, profession, age and sex, further they gave infor-

¹ Great Britain, Report on the Administration of Palestine, Op.Cit., p. 17.

mation about the geographic distribution of the immigrants within the country - in urban and rural districts. The same statistics were provided for emigrants.¹ Further, when the P.M.C. asked for more accurate statistics on unemployment (1931 Report of the P.M.C. to the Council)² and on the occupation of immigrant after his arrival in Palestine (Mr. Rappard)³ Britain complied by setting up a Statistical Bureau in 1935 - but this was after a long delay.

However, Britain at times seemed to show a reluctance to disclose all aspects of the Administration. For example, it delayed the publication of the statements of the Barrat Caesarea and Dead Sea Concessions until 1929.⁴ This acquires importance in view of the fact that the Arab petitioners were complaining about the terms of the concessions, which they believed gave undue advantages to the Jews, much before 1929.

¹ Ibid., 1926, pp. 61-64.

² P.M.C., XIX, p. 208.

³ Ibid., XX, p. 231.

⁴ Great Britain, Report on the Administration of Palestine...
Op.Cit., p. 11 (1929)

CHAPTER VII

CASE STUDY OF THE RELATIONSHIP BETWEEN THE P.M.C. AND THE MANDATORY POWER. PARTITION PROPOSAL OF THE PALESTINE ROYAL COMMISSION OF 1937 AND THE WHITE PAPER OF 1939

The future of Palestine as viewed by the Palestine Royal Commission of 1937 (the Peel Commission) and the White Paper of 1939 was one of the major issues that confronted the mandatory and the P.M.C. In fact, this period from 1937 to 1939 stands out as a unique period in the interwar mandatory history - for it was a period of contemplated change entailing the possible termination of the mandate. Hence, the P.M.C. in this period was to play a new role - no longer just passing judgement on the administration of the mandatory. This new role, the P.M.C. and the mandatory could interpret widely or narrowly. Hence the writer considers it important to study the relationship between the P.M.C. and the Mandatory on the partition proposal and subsequent White Paper of 1939.

Another reason why the writer would choose to study this period is that it involved deliberations by the Mandatory and the P.M.C. on the very dilemma of the mandate - the dual obligations of the mandate. The question was still the ful-

fillment of these dual obligations under a new form. Hence it included the whole gamut of the questions of the mandatory period - immigration, land, self-government.

A. The Partition Proposal of the Palestine Royal Commission of 1937.

The Arab uprising of 1936 had started, the mandatory power had sent a Royal Commission (with Lord Peel as Chairman) to Palestine to ascertain the cause of the disturbances and to find means of ensuring the smooth working of the mandate¹, the Commission had published its report on July 7, 1937, His Majesty's Government had expressed general agreement with the conclusions of the Peel Report, and now the P.M.C. was to voice its opinions on the latter, before Britain passed its final judgement.

The Palestine Royal Commission had recommended certain measures for the better functioning of the Mandate. However, it had declared:

They are the best palliatives we can devise for the disease from which Palestine is suffering, but they are only palliatives. They might reduce the inflammation and bring down the temperature, but they cannot cure the trouble. The disease is so deep-rooted that, in our firm conviction, the only hope of a cure lies in a surgical operation.²

It had advocated the termination of the mandate and the partition of Palestine into two independent states - Jewish and Arab respectively - and a permanent mandatory regime over the

¹Great Britain. Colonial Office. Palestine Royal Commission. Report Presented by the Secretary of State for the Colonies to Parliament by Command of His Majesty, July, 1937. (London: His Majesty's Stationery Office, 1937), p. vi.

²Ibid., p. 368.

Holy places (Jerusalem, Bethlehem, Nazareth, and the Sea of Galilee) as measures to overcome the deadlock that it believed prevailed in Palestine.¹

His Majesty's Government in its statement of policy had in general accepted the above solution:

In the light of experience and of the arguments adduced by the Commission, they are driven to the conclusion that there is an irreconcilable conflict between the aspirations of Arabs and the Jews, in Palestine, that these aspirations cannot be satisfied under the terms of the present mandate and that a scheme of partition on the general lines recommended by the Commission represents the best and most hopeful solution of the deadlock.²

In the implementation of the above, they had undertaken to observe "their existing treaty obligations under the Covenant of the League of Nations and other international instruments..."³

However, the specific proposal to refer the matter to the International Organization had come from the House of Commons. The latter had not committed itself to the 1937 White Paper which endorsed the Peel recommendations. Approval had first to come from the League of Nations, it had decided. In this connection, it had stated that the statement of policy "should be brought

¹ Palestine Royal Commission, p. 380.

² Shaw, A Survey of Palestine, Op.Cit., Vol. I., p. 40.

³ P.M.C., XXXII, p. 14.

before the League with a view to enabling the British Government, after adequate enquiry, to present Parliament with a definite scheme taking full account of all the recommendations"¹.

Thereupon the Government of the United Kingdom had referred the matter to the Council of the League and had asked it to request the Mandate's Commission "at once to take into consideration the report and recommendations of the Royal Commission and the statement of policy of His Majesty's Government thereon, in order that it may be in a position to give the Council the benefit of its preliminary views at its September session."² Thus the mandatory power had though reference to the P.M.C. a necessary step before conducting further studies on partition.

Further, a glance at the type of representatives Britain sent to the P.M.C., emphasizes the importance that she had attached to the Commission. Prominent among these was The Right Hon. W.Ormsby-Gore, Secretary of State for the Colonies³ (he had formerly been a member of the Mandates Commission). In this connection Mr. Rappard stated, "The fact of the first empire of the world agreeing to send - and for intermittent periods at that - the Head of its Colonial Administration to confide its preoccupations to the Commission unquestionably constituted a

¹Hansard, Vo. 326, 1937, pp. 2367-68

²P.M.C., XXXII, p. 11.

³Ibid. . . , p. 204.

situation which would shock imperialists of the conventional type". The other representatives were: Mr. J. Hathorn Hall, an expert in Palestine affairs (he had been Chief Secretary to the Government of Palestine) and Mr. J.M. Martin who had been Secretary of the Palestine Royal Commission.¹

The P.M.C. was faced with a new task. It was no longer its traditional function, of examining annual reports and of seeing that the mandatory had observed the mandate. Rather, it was asked to give its opinion on the termination of the mandate itself. But, this termination was sought not so much because of the "attainment of maturity"² by the ward as (of) the difficulties of guardianship"³ - i.e. the "irreconcilability" of the dual obligations entailed by the mandate. Further, the question was not only one of termination of the mandate but of partition - "a radical transformation of the existing regime"⁴. As Lord Hailey, member of the P.M.C. said in its new task the Commission was "not merely to consider events in the light of the prescriptions of the mandate, but to enter on an entirely new field in regard to which no guiding principles

¹Ibid., p. 13.

²Maturity, interpreted as readiness for self-government, was considered the main guideline for determination of termination of mandate in other mandated territories.

³P.M.C., XXXII, p. 226.

⁴Ibid.

were available."¹

The P.M.C. had first to determine its terms of reference, then to consider the question of reconciliability of the dual obligations entailed in the mandate, and later to deal with the question of partition and other possible solutions.

While both the mandatory power and the members of the P.M.C. emphasized collaboration, they pointed out that this should not be at the expense of independence of the Commission. Thus, Mr. Rappard, of the P.M.C., reiterated "the Commission would not compromise either its dignity or its independence."² Mr. Ormsby-Gore, British accredited representative, declared to the P.M.C., "It is your duty to come to an independent judgement on the various documents laid before you and on the suggestions which I, as the representative of the Mandatory Power, hope in due course to lay before you."³ This was very important. The mandatory itself conferred a status on the Commission. The new dignity acquired by P.M.C. was the work of Mandatory.

How far did the P.M.C. and Mandatory achieve the above Collaboration with independence.

¹Ibid., p. 19.

²Ibid., p. 14.

³Ibid., p. 20.

1. Terms of Reference of the P.M.C.

On this point both the Mandatory power and the P.M.C. tended to agree.

Mr. Ormsby-Gore, the British Representative, defined the limits within which a solution was to be bound as "The spirit of the Covenant of the League", "The Balfour Declaration" and "the good of all sections of those world-wide international interests in the Holy Land which must be re-affirmed."¹ Asked by Mr. Rappard to make clearer the first limit, Mr. Ormsby-Gore defined it as "the fundamental Article 22 of the Covenant."²

Thus Mr. Orts, the Chairman, specifically referred to paragraph 4 of Article 22 (which dealt with the ultimate independence of the subjects of the former Ottoman Empire) as one of the terms of reference.³ A further term of reference for the P.M.C. was considered to be the Balfour Declaration which was incorporated in the Mandate Instrument. Thus in its observations to the Council the P.M.C. mentioned that:

Although the question at issue was its revision, the Palestine Mandate remained the centre of the whole of the deliberations. The Mandate defines the obligations assumed by the Mandatory Power towards the League of Nations, on whose behalf the territory is administered. These obligations themselves are derived from the Balfour declaration of November 2nd, 1917, and from the provisions of Article 22 of the Covenant, to which the United Kingdom Government, in accepting the Mandate, understood to give effect.⁴

¹ Ibid., p. 13.

² Ibid., XXXII, p. 182.

³ Ibid., p. 33

⁴ Ibid., p. 227.

The principle of equal weight of the dual obligations of the Mandatory, which was clearly stated at the Seventeenth Session of the P.M.C. in June 1930 was also considered a major term of reference.¹ To this latter limit, Mr. Ormsby-Gore during the questioning undertaken within the P.M.C., gave support too.²

2. Maintenance of the Mandate - Question of Reconcilability or Irrconcilability of the Dual Obligations.

As seen above³, the Palestine Royal Commission and the British Government considered the dual obligations irreconcilable. They believed that the continuance of the Mandate would necessitate the indefinite continuance of the policy of repression which Britain had undertaken lately.⁴ Hence the mandate was unworkable.

The members of the P.M.C. tended to show a certain independence of the Mandatory in their consideration of this question. The Commission as a whole reached the following conclusion: It recognized that there was an inherent inevitable antagonism⁵ in the dual obligations of the Mandate. Among the circumstances which accentuated the antagonism it enumerated the growth of nationalism, the independence of neighbouring Arab States, and the fluctuation of policy of the Mandatory.⁶

¹ Ibid., p. 201.

² Ibid., p. 182.

³ See

⁴ P.M.C., XXXII, p. 171.

⁵ Ibid., p. 228.

⁶ Ibid., pp. 228-29.

But the majority opinion did not go to the point of declaring that the Mandate, per se, had proved unworkable. It declared:

However this may be as regards the past, when a more consistent policy, even if it could not stifle at the source the antagonism between Arabs and Jews, might at least have prevented the outbreaks of violence which it had provoked, one point is quite clear to the Commission: the present Mandate became unworkable once it was publicly declared to be so by a British Royal Commission speaking with the two-fold authority conferred on it by its impartiality and its unanimity, and by the government and Mandatory Power itself.¹

The minority opinion tended to agree with the Mandatory that the mandate was unworkable. It is interesting to note among them Lord Hailey. He regarded the "mandate as unworkable, not merely because of recent experiences, not merely because there had been riots and disturbances, but because the future political development of the country was essentially and intrinsically impossible on the lines which appeared to be implicit in the Mandate."²

Another upholder of the British point of view was Mr. Giraud. He placed a great value on the Mandatory's power of decision and gave the P.M.C. the role of a "yes-man".

...the United Kingdom Government, with over fifteen years' experience of the Mandate behind it, was better qualified than the Commission to say whether the Mandate, even with amendments, was workable or not... If the United Kingdom Government, after studying the Royal Commission's report and examining

¹ Ibid., p. 168.

² Ibid., XXXII, p. 168.

all possible means of remedying the evils of the present situation, took the view that the mandate could not in any circumstances be continued, the Mandates Commission could not do otherwise than conclude that a solution must be sought outside the terms of the Mandate.¹

A similar statement was also made by Mr. Palacios -
limiting the role of the P.M.C.

As a matter of fact the question under discussion was not whether, in view of the present state of affairs in Palestine, the existing Mandate was capable of execution and whether it was advantageous to maintain it; the point to be considered was whether the decision of the Mandatory Power was fixed and unalterable. If that were really the case, and so far there had been no doubt on the subject, and if the British Parliament and the Government were agreed as to the impossibility of enforcing the Mandate by reason of the essential incompatibility of its terms, the Mandates Commission could only acquiesce in the statements made to it on that first point.²

3. Partition Proposal of the Royal Commission.

While presenting the partition scheme to the P.M.C. the British accredited representative sought the advice of the P.M.C.

I do not ask the Mandates Commission to commit itself finally, but to allow the Mandatory Power to explore the solution which it thinks best in the circumstances, and to produce for the League in due course a more definite scheme for your later consideration. ...if I may, to urge you to consider whether, and how far you are competent

¹Ibid., p. 165.

²Ibid., p. 161.

and able to encourage us to pursue the policy which we have put before you, or how far you feel it your duty to discourage us and tell us and advise the League to that effect, that you wish us to drop the idea of partition and explore other alternatives.¹

It is interesting to observe from the Minutes of the P.M.C. that not a single member of the Mandates Commission expressed complete approval of the partition plan as suggested by the Royal Commission.² The opinion nearest to the proposal was expounded by Lord Hailey, the British member of the Permanent Mandates Commission. He expressed the belief that if a technically sound scheme of partition were presented, its advantages would greatly outweigh the disadvantages which would necessarily remain if the Mandate were continued in its old form.³

Some of the arguments against the partition plan presented at the P.M.C. were:

1. The Arabs and Jews could not be satisfied - since the first insisted on the independence of the whole of Palestine and the latter the establishment of the Jewish National Home over the same territory.⁴
2. The problem of transfer of Arab population from the Jewish state would prove to be very acute.⁵

¹ Ibid., XXXII, p. 38.

² Ibid., p. 203

³ Ibid.,

⁴ Ibid., p. 229 (preliminary opinion of the P.M.C. as a

whole)

⁵ Ibid., p. 198 (Mlle. Dannevig).

3. The commercial relations between the two states would be complicated because of the "fundamental difference in the economic structure of the two neighbours."¹
4. The Arab state would have inadequate financial resources.²
5. Some of the Arab places of worship and veneration would be found in the Jewish state.³
6. Palestine was too small a country to be subdivided.⁴

But the major argument was presented by Mr. Orts. He regarded "partition as a dangerous solution if it involved, as was proposed in the Royal Commission's report, the creation of two states, which would shortly be recognized as completely independent. It would be dangerous, because it would place those two states face to face without any transition period and at a time immediately preceded by a long record of friction and disagreement, which had left behind a legacy of hatred and resentment."⁵

4. Other Solutions

Although the Mandatory Power did not preclude other solutions, it tended to place them on a lower echelon than par-

¹ Ibid., XXXII, p. 200 (Mr. Giraud)

² Ibid., (Mr. Giraud)

³ Ibid., p. 199 (Mlle. Dannevig).

⁴ Ibid., p. 198 (Mlle. Dannevig).

⁵ Ibid., p. 201.

tition scheme of the Royal Commission. It did not expect the P.M.C. to spend time on them.

Glancing at the preliminary opinion delivered by the Commission, it may be seen that the P.M.C. showed a great deal of independent thinking.

Although it committed itself to the examination of the solution involving partition of Palestine, it was opposed to the idea of the immediate creation of two new independent states. It considered more favourable the prolongation of the period of apprenticeship under two plans:

- (a) Provisional cantonisation
- (b) Two mandates.¹

These two solutions involved some kind of partition but it is important to note that both envisaged a possibility of ultimate reunion.

Mr. Rappard, was the proponent of the provisional cantonization. He stated that P.M.C. "might decide in favour of a mandate involving far-reaching autonomy for both cantons, with ultimate reunion within the territory as the aim of the Mandatory."²

The two mandates plan was proposed by Mr. Orts. It envisaged a mandatory power over Arab and Jewish mandates. The Jews might then be able to regulate their own immigration. "The

¹ Ibid., p. 229-33.

² Ibid., p. 203.

only way of establishing peace between hostile brothers was to separate them."

"That solution, the Chairman though, safeguarded the future. It opened the door to all eventualities and in particular, to the eventuality that, as time passed and memories faded into oblivion, a rapprochement might be brought about by the growth of a conviction, which was at present lacking, of the community of material and moral interests of both sections of the population, which undoubtedly existed."¹

The resolution of the Council, as seen in Chapter IV, gave the Mandatory the right to pursue further the study of a solution involving partition.

B. The White Paper Of 1939.

On December 23, 1937, the Secretary of State in a despatch to the High Commissioner stated that a commission to study "The practical possibilities of a scheme of partition" would be sent to Palestine and if this scheme were found to be equitable and practicable, His Majesty's Government would ask the Council of the League to consider the matter.² The Partition Commission, under the Chairmanship of Sir John Woodhead, conducted the study and published its report in November, The statement of policy by His Majesty's Government issued simul-

¹ Ibid., p. 202.

² Shaw, Survey of Palestine, Op.Cit., pp. 43-44.

taneously with this report stated that the Commission had "shown that the political, administrative and financial difficulties involved in the proposal to create independent Arab and Jewish States inside Palestine are so great that this solution of the problem is impracticable."¹

Whereupon Britain undertook to bring about a rapprochement between Arabs and Jews at a conference in London. When these attempts failed, Britain issued the White Paper of May 17th, 1939.

The House of Commons passed this White Paper with 268 votes for and 179 against, on May 22, 1939. The following motion was defeated:

As proposals of His Majesty's Government relating to Palestine, as set out in Command Paper No. 6019, are inconsistent with the letter and spirit of the Mandate and not calculated to secure the peaceful and prosperous development of Palestine, this House is of the opinion that Parliament should not be committed pending the examination of these proposals by the Permanent Mandates Commission of the League of Nations.²

The House of Lords gave approval of the policy on May 23, 1939.³

The White Paper⁴ declared its objective to be the establishment of a unitary State of Palestine within a period

¹ Ibid., p. 47.

² Hansard, Vol. 347, Cols. 1938-39 and 2129-2190.

³ Hansard, Vol. 113, Cols. 81-143.

⁴ Great Britain Government, Palestine: Statement of Policy by His Majesty's Government, 1939.

of ten years. During the transitional period, the Mandatory Power would grant the people of Palestine an increasing part in the Government of the country — such as the direction of Departments of the Government with the assistance of British advisors. The indigenous population would be members of the Executive Council which would in time evolve into a Council of Ministers. However, if this period were to need prolongation Britain promised to consult the Council of the League of Nations, the people of Palestine and the neighbouring Arab States and co-operate with them in making plans for the future.

In the case of immigration, it was decided to bring the Jewish population up to one third of the total population of the country within a period of five years, after which time no further immigration would be permitted unless the Arabs of Palestine acquiesced in it. It was estimated that all in all 75,000 immigrants would be admitted in the following manner - the rate of immigration would be 10,000 a year and as soon as adequate provision was made, the High Commissioner would allow a further 25,000 immigrants as a solution of the Jewish Refugee problem. From the annual quotas would be deducted the number of illegal immigrants. The new immigration provision entailed the abandonment of the "economic absorptive capacity" formula.

On the question of land, the High Commissioner would have the power to prohibit and regulate the transfer of land.

The new policy in principle agreed with the views of some members of the P.M.C. as expressed in 1937, on two points: prolongation of the obligations of Britain under a mandate system for some more time and the eventual creation of a unitary State of Palestine. However, it did not rely on means suggested by the P.M.C. such as cantonization or the creation of two mandates as preliminaries. The method it suggested met as will be seen the severe criticism of the P.M.C.

The Mandates Commission discussed the White Paper of May 1939, in June of the same year. The Colonial Secretary, Malcolm MacDoland, defended the British policy on juridical rather than political grounds. He considered the White Paper to be in accordance with the Mandate, Article 22 of the Covenant of the League and the Balfour Declaration.¹

Thus the British Government anticipated that the primary concern of the P.M.C. would be whether British policy was in accordance with the terms of the Mandate.

In this connection Mr. Rappard declared:

While it was for the Mandates Commission to give an opinion to the Council on the application of the Mandate, it was for the Council to assume its own responsibilities and take into account, if it so desired, those considerations of a political character

¹P.M.C., XXXVI, p. 97.

which, precisely, were outside the competence of the Mandates Commission.¹

1. Self-Government

The British representative sought to defend the decision to grant independence to Palestine on two grounds, the Hogarth Message, and Article 22 of the League Covenant.

According to Mr. MacDonald, the Hogarth Message, delivered under the same government that had made the Balfour Declaration did not negate the Declaration but gave assurances to the Arabs that Palestine would not become a Jewish State against the will of the Arabs in Palestine.²

Further, the Hogarth Message had interpreted the "civil rights" that were to be guaranteed for the non-Jewish population, provided for in the Balfour Declaration, as "the freedom of the existing population, both economic and political."³

The Chairman of the PMC opposed this on the ground that since the message had not been communicated to the League of Nations before the Mandate was confirmed, it could have no bearing on the Mandate which was an international convention between the British Government and the League of Nations.⁴

Monsieur Van Asbeck attacked the other ground of British argument. According to him, Palestine in Category A was a mandate sui generes and that the Palestine Mandate did not provide

¹ Ibid., p. 199.

² Ibid., p. 98

³ Ibid., p. 97

⁴ Ibid., p. 206.

that the National Palestinian Government should be established.

Further, he argued that:

Article 28 of the mandate did not expressly stipulate - as in the case of the mandate for Syria and Lebanon and to Anglo-Iraq Treaty of 1922 - that the mandate should terminate, but merely contained certain provisions concerning the Council of the League of Nations and the Mandatory Power which should apply in the event of the termination of the mandate.¹

The British representative declared:

His Majesty's Government could not abandon its responsibility for the good government of Palestine if there was a likelihood of such abandonment leading to grave trouble and possibly civil war. That is why it had stated that "the establishment of an independent state... would require such relations between the Arab and Jews as would make good government possible."²

He gave examples of possible constitutional arrangements by which to assure that the Arab majority would not dominate the Jews.³ These assurances nullified the concept of independence as the Arabs understood it.⁴

2. Immigration

The Mandatory justified British policy on immigration on the ground that reasonable actualization of the Jewish National Home had been achieved along lines suggested in the 1922 Churchill White Paper. The Jewish community had already achieved sufficient strength to maintain itself.⁵

¹Ibid., p. 200.

²Ibid., p. 138.

³Ibid., pp. 101-102.

⁴Ibid., p. 199.

⁵Ibid., pp. 99.

Mr. MacDonald further pointed out that the abandonment of "the economic absorptive capacity" formula for the regulation of Jewish immigration was not a violation of the Mandate Instrument since the latter did not mention it. The Mandate (Article 6) instructed that Jewish immigration was to be facilitated "under suitable conditions", and so long as "the rights and position of other sections of the population are not prejudiced."¹ In gauging these conditions, he asserted, consideration should be given to the question whether an immigrant could be politically absorbed" apart from whether he could be "economically absorbed". Further, since the Jews had already acquired a position of economic dominance, the rights guaranteed to the Arabs would be violated if Jewish immigration were allowed to continue indefinitely.²

Monsieur Giraud³ and Lord Hankey⁴ of the P.M.C. stated that the provisions for immigration were not in contradiction of Article 6 of the Mandate. The majority of the members however considered it to be in contradiction with the provisions calling for the facilitation of Jewish immigration embodied in Article 6 which would continue to be in force so long as the Mandate was in force.

¹ Ibid., p. 98.

² Ibid., pp. 99-100.

³ Ibid., p. 122.

⁴ Ibid., pp. 129-30.

Thus, Mr. Orts, the Chairman of the P.M.C., asked "whether the accredited representative considered it to be in accordance with the spirit of the mandate to consult the Arabs on all questions, economic or other, which might affect the establishment of the Jewish National Home."¹

Mr. Rappard made a similar statement:

It would be unforgiveable blindness on its (the Commission's) part not to recognise that immigration unless the Arabs of Palestine are prepared to acquiesce in it - in the terms of the 1939 White Paper - meant nothing else but stoppage of immigration altogether.²

Further, Mr. Rappard stated that if the P.M.C. had approved the measures of 1937 for the curtailment of immigration, it was because they were temporary.

3. Land

Mr. MacDonald referring to the proposed land policy stated that the Jews had already acquired "a considerable part of the best agricultural land in the country". If further alienation of land from the Arabs were allowed this would result in "a loss of livelihood to Arab cultivators" and thus be in violation of the rights guaranteed to the Arabs under Article 6 of the Mandate.³

The Chairman of the P.M.C., Mr. Orts, pointed out that the publication of the Order-in-Council empowering the High Commission to make regulations prohibiting and regulating

¹ Ibid., p. 123.

² Ibid., p. 124.

³ Ibid., p. 101.

transfers of land had presented the members of the P.M.C. with a fait accompli.¹

The majority of the members of the P.M.C. considered the mandatory's policy in violation of Article 6 which called for close settlement of Jews on land.

The final observations of the Commission show that the opinion of the members was divided. A majority of four against three decided that they "did not feel able to state that the policy of the White Paper was in conformity with the mandate, any contrary conclusion appearing to them to be ruled out by the very terms of the mandate and by the fundamental intentions of its authors."²

The majority members were Mr. Orts, Mr. Rappard, Mr. Van Asbeck, and Mlle Dannevig - nationals of Belgium, Switzerland, Holland, and Norway respectively.

The minority consisted of Lord Hankey, Mr. Giraud and Count de Penha Garria - nationals of Britain, France and Portugal respectively. They stated that "they were unable to share this (the majority) opinion; they consider that existing circumstances justify the policy of the White Paper, provided the Council did not oppose it."³

All the members of the P.M.C. agreed that "in thinking that the considerations put forward in the report of the Royal Commission of 1937 and in the preliminary opinion presented

¹ Ibid. . . . p. 135.

² Ibid. . . . p. 275.

³ Ibid.

by the Mandates Commission in August of the same year have not lost their relevance. The solutions envisaged in these two documents (excluding the setting-up of two independent States withdrawn at the outset from mandatory control) should be borne in mind at the appropriate moment."¹

The Second World War having started on September 2, 1939, the Council did not meet to discuss the recommendations of the PMC. Thus the observations of the P.M.C. were not given official backing.

In the House of Commons, on July 20, 1939, Mr. MacDonald referring to the position of the Permanent Mandates Commission in relation to the White Paper of May 1939 declared:²

We recognize fully that the Permanent Mandates Commission have a certain function to perform in this matter. It is purely an advisory function. They present their report to the Council of the League of Nations and their function towards the Council is a purely advisory one. The authority in this matter is the Council of the League itself; and when the Council receives the report of the Permanent Mandates Commission, we shall, of course be present at the Council. We shall present to the Council then our arguments for believing that this policy is entirely within the terms of the Mandate.

Another statement, made on June 7th (just before the meeting of the P.M.C.) by Mr. Chamberlain in the House of Commons, pointed to the fact that he would be willing to submit controversy on the Palestine, if it should arise, to the Permanent

¹ Ibid.

² Hansard, Vol. 350, Cols. 806-807.

Court of International Justice at the Hague. In answer to a question whether the P.M.C. had the competence of dealing whether the British proposals were legal or not, he had declared: ¹

The only provision on such a matter is in Article 26 of the Palestine Mandate where it is laid down that if any dispute should arise between the Mandatory Power and another member of the League of Nations as to the interpretation of the application of the provisions of the Mandate, such a dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice. ¹

With the coming of the World War Britain adhered strictly to the White Paper of 1939 in order to appease the Arabs. ² It prohibited immigration above the quota; in 1940, it passed the Land Transfer Regulations in accordance with the White Paper.

Thus the Mandatory due to political considerations did not comply with the wishes of the P.M.C.

¹Hansard, Vol. 348, Cols. 412-14.

²George E. Kirk, "The Middle East", The World in March ed. Arnold Toynbee and Frank T. Ashton - Gwatkin (Oxford: Oxford University Press, 1952), pp. 137-38.

CHAPTER VIII

CONCLUSION

After going through the Minutes of the P.M.C. for the period of the Palestine mandate, extending from 1923 to 1939, and making a study of the various public documents of the mandatory power, the debates of the House of Commons, the relevant publications of the League of Nations on the subject of Palestine mandate, the writer has arrived at the conclusion that the role of the P.M.C. lay very near the minimum terminal of the moral influence continuum. However negative this conclusion maybe, the role of the P.M.C. in Palestine mandate warranted study as an evidence of the weakness of the mandate system — the system of international supervision which was to do away with annexation, the traditional right of victorious powers.

At a critical period in the history of the Middle East when a Jewish National Home was being established in Palestine against the wishes of the great majority of the indigenous population, the Arabs, the League of Nations was entrusted with the role of safeguarding "the well-being and development" of the population of Palestine through a mandate to be administered by Britain as a mandatory power. According to Mr Hymans, the Belgian Representative to the Council, the Council was not only to watch for the mandatory's adherence to the terms of the

Mandate but also for the "good use" of its powers. In view of the fact that it was Britain who had drawn up the terms of the mandate, this latter provision acquires importance. The "good use" was differently interpreted by the Arabs and the Jews. Both sections of the Palestine population appealed to the P.M.C. to give support to their view. It is true that the machinery of reception of petitions emanating from Palestine was faulty, as it provided the petitions to be forwarded through the mandatory against whom the criticisms were usually levelled. But since both the Arabs and the Jews had co-national groups outside Palestine, the disadvantages of the above method could be circumvented to a certain extent as these petitions were sent directly to the P.M.C. and thus escaped the scrutiny of the mandatory. In fact during the crisis periods of 1929 and 1936 most of the petitions received by the Commission came from outside Palestine. What seems to be more important to the writer, in the case of the Palestine mandate, was the neutral attitude adopted by the P.M.C. It sought to give equal weight to the dual obligations of the mandate -- the establishment of self-governing institutions on the one hand, and the creation of Jewish National Home on the other as a solution to the dilemma. In this way the Commission could give satisfaction to neither section of population.

Other factors leading to the inaction of the Commission on petitions were the following. Firstly, the P.M.C. could not

make on-the-spot visits to Palestine, or hear the petitioners. Thus the Commission, not having sufficient information, did not feel itself competent enough to confront the mandatory. Secondly, it always had the views of the mandatory during the debates and thus tended to be influenced by its views. Thirdly, the Commission had high regards for the dignity of the mandatory.

The observations of the Commission on the annual reports of the mandatory show that in general the P.M.C. played the role of a subservient to the mandatory. Several factors were accounted for this. In most cases by the time the Commission met to discuss specific issues the mandatory had already initiated policy. During the oral questioning of the mandatory, the P.M.C. very often was won over by the arguments of the representative of the mandatory power. In some cases, however, the Commission took no action simply to safeguard the dignity of the mandatory specially in view of the fact that the latter was faced with difficulties in Palestine. The degradation of the mandatory, the P.M.C. felt, would incite the population to hostile action against Britain. It may be stated that one of the major reasons for inaction of the Commission may have been its belief that recommendations detrimental to the interest of Britain would, in all probability, be defeated in the Council, where Britain and other mandatory powers held what amounted to a veto.

Although in most cases the Commission either endorsed

British policy or remained non-committal, or kept silent, it would be wrong to state that the Commission did not endeavour to influence the British policy at times. For example, the Commission criticized Britain when she was following a too liberal immigration policy in 1934, when she failed to stop illegal immigration of Jews in 1936, and when she did not take positive action for the close settlement of the Jews on land or for the provision of cooperative societies and development schemes for the Arabs in 1930.

It is significant to note that the severe criticism levelled by the Commission during the first crisis period of 1929 did not deal with the main issues — immigration and self-government. Rather it was limited to administrative matters. In 1936 crisis period, the P.M.C. did not attack Britain.

As regards the questions of the future of the mandate, the P.M.C. showed considerable independence of thinking. In its observations on the Partition Plan, the P.M.C. gave suggestions of its own, such as cantonisation and the creation of two mandates. The P.M.C. severely criticized the White Paper of 1939.

The effectiveness of these criticisms, and attempts at initiating policy were very low since Britain was guided in her action by political considerations rather than by the views of the Commission. The Commission had no sanctions to ensure compliance.

Attempts by the Commission to enlarge its role were blocked by the Council. Thus when the Commission tried to play

a more active role, as in the case of oral hearing of petitioners and on-the-spot visit to Palestine, the Council, after consultation with the mandatory powers, rejected its demands, even though the Commission had made provisions for safeguarding the dignity of the mandatory.

In an era of national sovereignty and great power hegemony an experiment in international supervision had not proved to be successful. However, it may be said that perhaps Britain's actions were, to a very little extent, influenced by the Commission due to the fact that international public opinion, kept informed by the Secretariat of the observations of the PMC, might censure it.

APPENDIX

ARTICLE 22 OF THE COVENANT OF THE LEAGUE OF NATIONS

1. To those colonies and territories which as a consequence of the late War have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reasons of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

3. The character of the Mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

4. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

5. Other peoples, especially those of Central Africa are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, and arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

6. There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from

the centres of civilization, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above-mentioned in the interests of the indigenous population.

7. In every case of Mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

8. The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

9. A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observation of the Mandates.

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