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THE QUESTION OF THE EXTRAORDINARY EXPENDITURE
CONNECTED WITH THE CYPRUS CAMPS

(Working Paper Prepared by the Secretariat)

According to the revised schedule of liabilities annexed to document AP/5, the total liability connected with the camps in Cyprus not met by 1 January 1948, amounted to LP.4,550,000, out of which 2,500,000 were expected to fall due for settlement between 1 February 1948 and 31 March 1948 and LP.2,050,000 between 31 March 1948 and 15 May 1948.

I. THE ORIGINS OF THE QUESTION

1. The White Paper of 1939 stated inter alia that "the alternatives before His Majesty's Government are either (i) to seek to expand the Jewish National Home indefinitely by immigration, against the strongly expressed will of the Arab people in the country; or (ii) to permit further expansion of the Jewish National Home by immigration only if the Arabs are prepared to acquiesce in it. The former policy means rule by force. Apart from other considerations, such a policy seems to His Majesty's Government to be contrary to the whole spirit of Article 22 of the Covenant, as well as to their specific obligations to the Arabs in the Palestine Mandate. Moreover, the relations between the Arabs and the Jews in Palestine must be based sooner or later on mutual tolerance and goodwill; the peace, security and progress of the Jewish National Home itself require it. Therefore His Majesty's Government, after earnest consideration, and taking into account the extent to which the growth of the Jewish National Home has been facilitated over the last twenty years, have decided that the time has come to adopt in principle the second of the alternatives referred to above".

2. It was accordingly provided that, after the admission of not more than 75,000 additional immigrants during the five years beginning in April 1939, "no further Jewish immigration will be permitted unless the Arabs of Palestine are prepared to acquiesce in it".

3. The Zionist Congress of 1939 denied the moral and legal validity of the White Paper.

4. The Permanent Mandates Commission, which had the duty "to advise" the Council of the League of Nations "on all matters relating to the observance of the Mandates" reported that "the policy set out in the White Paper was not in accordance with the interpretation which, in agreement with the Mandatory Power and the Council, the Commission had always placed upon the Palestine Mandate". The majority of the Commission (four members) "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". The other three members "were unable to share this opinion; they consider that existing circumstances would justify the policy of the White Paper, provided the Council did not oppose it".

5. It remains a matter of speculation whether the Council of the League, in the circumstances existing in the summer of 1939, would have sided with the majority of four or the minority of three of the Permanent Mandates Commission. The outbreak of war in September 1939 prevented the Council from considering the question.

6. When the five year period of continuing Jewish immigration contemplated in the White Paper came to end in the Spring of 1944, the 75,000 certificates had not all been utilized. There was a residue of 24,000 certificates. There had been, however, during that period, besides the immigration of persons provided with certificates, what the Mandatory Power has described as "attempts to organize the unauthorized entry of large bodies of immigrants".

According to the Mandatory Power: "During the war it was more than ever imperative that the Administration should resist this threat to its authority, since the shiploads of refugees came from inside Axis-controlled Europe and offered an opportunity for the infiltration of enemy agents. In November 1940 it was decided that illegal immigrants would be deported to an alternative place of refuge in the Colonial Empire". The place chosen was Mauritius.

7. In view of the existence of the residue of 24,000 certificates in the Spring of 1944, the time-limit for the utilization of the 75,000 certificates was waived. From 1 October 1944, a monthly rate of Jewish

immigration was fixed at the figure of 1,500. When the 75,000 certificates were exhausted at the end of 1945, this monthly rate was maintained, pending the report of the Anglo-American Committee of Inquiry. The report recommended inter alia the immediate authorization of 100,000 immigration certificates. The United Kingdom Government was not ready to give effect to this recommendation irrespective of the other recommendations in the Report. It has continued to admit immigrants at the rate of 1,500 a month.

8. The "illegal" immigrants deported to Mauritius were admitted to Palestine in 1945 on the quota provided by the White Paper, and the policy of the Mandatory Power up to the Summer of 1946 was to deduct from the monthly quotas new "illegal" immigrants on their arrival in Palestine. However, according to the Mandatory Power, "in the Summer of 1946 the inflow of illegal immigrants reached such dimensions that it was no longer possible to accommodate them in camps in Palestine. It was therefore decided, in August, that future shiploads would be transferred on arrival to British ships and taken to camps in Cyprus". Since December 1946, fifty per cent of the monthly quota has been allocated to the illegal immigrants in Cyprus.

9. According to the Supplement to the Survey of Palestine prepared for UNSCOP, page 24, "illegal" immigrants are deported from Palestine in exercise of the powers vested in the High Commissioner by Regulation 122 of the Defence (Emergency) Regulations 1945, the first paragraph of which reads as follows:

"The High Commissioner shall have power to make an order under his hand for the deportation of any person from Palestine."

10. In its Supplementary Memorandum submitted to UNSCOP, the Palestine Government stated (page 34):

"In organizing illegal immigration into Palestine the Jews have defied the law of Palestine and of other countries from which this traffic has been carried on. It is no answer to this to say that the law is unacceptable or that it is illegal, when it is not. In maintaining the law against these attempts to break it the Administration has been compelled to commit itself to further expenditure of its resources on deportations and the maintenance of camps in Cyprus, costing in 1946 and 1947 a sum that may amount to £3 million."

11. On page 59 of the same Supplementary Memorandum, the Palestine Government states:

"Early in 1947 the occupants of the Cyprus camps wilfully destroyed over 200 of their tents costing over LP.20,000, what falls at present to be met by the Palestine Government."

II. THE LEGAL POSITION

12. The Jewish point of view is that the measures taken by the Palestine Government to regulate immigration as a consequence of the White Paper policy are illegal. As stated above, the question of legality has never been settled, as the Council of the League of Nations, the competent body to make a pronouncement, was prevented from doing so by the outbreak of the World War. In the opinion of the United Kingdom Government, the Defence (Emergency) Regulations under which the High Commissioner has been given power to deport "illegal" immigrants are legal. The fact that "illegal" immigration had greatly increased in 1946 has been invoked as a reason for ceasing at that time to deduct "illegal" immigrants from monthly quotas on their arrival in Palestine and for deporting them to Cyprus.

13. There is at present no possibility to settle the legal question of the consistency of the policy of the White Paper with the provisions of the Mandate if the United Kingdom does not accept that the question should be settled. It seems clear that it will prevent any possibility of its actions since 1939 being legally condemned - with all the consequences that such a condemnation might entail.

III. THE PROBLEM FACING THE COMMISSION

14. UNSCOP was informed that the present Administration of Palestine "has been compelled to commit itself to further expenditure of its resources on deportations and the maintenance of camps in Cyprus, costing in 1946 and 1947 a sum that may amount to £3 million". The present Administration also considers that it has to meet the terminal expenses connected with the liquidation of the camps.

15. It is for the Commission to consider whether it will object to the position taken by the present Palestine Administration.

16. Part C, Chapter 3, paragraph 3, of the Plan adopted by the General Assembly reads:

"(a) The State shall respect and fulfil all financial obligations of whatever nature assumed on behalf of Palestine by the Mandatory Power during the exercise of the Mandate and recognized by the State. This provision includes the right of public servants to pensions, compensation or gratuities."

"(b) These obligations shall be fulfilled through participation in the Joint Economic Board in respect of those obligations applicable to Palestine as a whole, and individually in respect of those applicable to, and fairly apportionable between, the States."

"(c) A Court of Claims, affiliated with the Joint Economic Board, and composed of one member appointed by the United Nations, one representative of the United Kingdom and one representative of the State concerned, should be established. Any dispute between the United Kingdom and the State respecting claims not recognized by the latter should be referred to that Court."

17. It is for the Commission to consider whether the non-recurrent expenditure connected with the camps in Cyprus falls within the scope of the above provisions. It may be argued that those provisions were meant primarily for recurrent expenditure (public debt, pensions of public servants).

18. It is very unlikely that a future Arab State would accept that the expenses connected with the camps in Cyprus should be considered as an obligation applicable to Palestine as a whole or that a future Jewish State would recognize them as an obligation applicable to its "individually".

19. It is suggested in AP/5, B, paragraph 2, that the Commission "may consider the advisability of requesting the present Administration to leave the ordinary revenue balance untouched, its extraordinary expenditure to that date (15 May) being treated as a capital liability to be met later on". The expenditure in connection with the Cyprus camps is by far the most important item of extraordinary expenditure.

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