

MANDATE for PALESTINE

Letter from the Secretary to the Cabinet to the Secretary-General of the League of Nations of July 1, 1922, enclosing a Note in reply to Cardinal Gasparri's letter of May 15, 1922, addressed to the Secretary-General of the League of Nations.

Presented to Parliament by Command of His Majesty.



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Mandate for Palestine.

The Secretary to the Cabinet, to the Under-Secretary for Foreign Affairs.

THE Secretary to the Cabinet presents his compliments to the Under-Secretary of State for Foreign Affairs and encloses herewith copy of a letter addressed to the Secretary-General of the League of Nations regarding the Palestine Mandate.

*Offices of the Cabinet,
2, Whitehall Gardens,
July 1, 1922.*

The Secretary to the Cabinet to the Secretary-General, League of Nations, Geneva.

THE Secretary to the Cabinet presents his compliments to the Secretary-General of the League of Nations, and, with reference to the letter addressed to the League of Nations by the Cardinal Secretary of State on the 15th May regarding the Palestine mandate, transmits herewith the following papers for the information of the Council of the League of Nations:—

No. 1. A note in reply to Cardinal Gasparri's letter to the League of Nations of the 15th May; annexed to this note are:—

- (a.) A new draft of article 14 of the Palestine mandate;
- (b.) Correspondence between His Majesty's Secretary of State for the Colonies and the Zionist Organisation*; and
- (c.) A draft Order in Council providing for the Constitution of Palestine.† This draft is still liable to revision.

No. 2. The revised final draft of the Palestine mandate.†

With regard to enclosure No. 2, attention is drawn to the following verbal alterations in the draft of the mandate published by His Majesty's Government in August‡ last:—

Preamble.—In the first sentence: “renounces” for “renounced.”

Article 1.—“This mandate” for “the present mandate.”

Article 4.—“Affect” for “effect.”

Article 12.—In second sentence: “he” for “it.”

Article 21.—Concluding words now read “to the nationals of all members of the League of Nations.”

Article 27.—“This mandate” for “the present mandate.”

* See Command Paper 1700, Nos. 5 and 7.

† Not printed.

‡ Cmd. 1500.

Article 28.—Concluding words now read: “Members of the League” instead of “Powers signatories of the Treaty of Peace with Turkey.”

Throughout the mandate various words printed in capitals have now been correctly given small letters.

In addition to these verbal alterations, Article 8 of the mandate now reads:—

“The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, are suspended in Palestine, but shall be revived immediately and completely upon the termination of the mandate régime, unless the Powers whose nationals were entitled on the 1st August, 1914, to such rights should agree, or have agreed, by treaty to their suspension or modification.”

Article 14 has been revised as shown in Annex (A) to enclosure No. 1 in this letter.

Article 25.—The words “with the consent of the Council of the League of Nations” have been inserted between the words “shall be entitled” and “to postpone.”

Article 27.—The words after “mandate” have now been omitted.

His Majesty's Government confidently hope that in the light of the modifications now made in the mandate and the explanations furnished in these papers, the Council of the League of Nations will formally approve the terms of the mandate at their forthcoming session.

*Offices of the Cabinet,
2, Whitehall Gardens,
July 1, 1922.*

Enclosure.

Note in reply to Cardinal Gasparri's Letter of May 15, 1922, addressed to the Secretary-General of the League of Nations.

1. CARDINAL GASPARRI'S letter of the 15th May appears to His Majesty's Government to be based upon an imperfect understanding of the measures which they propose to introduce in Palestine in consequence of the charge laid upon them by article 95 of the Treaty of Sèvres. In order to remove all possibility of misapprehension, they have the honour to communicate herewith, for the information of the Council of the League of Nations, copies of correspondence* which has passed between His Majesty's Principal Secretary of State for the Colonies and the Secretary of the Zionist Organisation, together with copies of a draft† Order in Council, which will shortly be promulgated to regulate the administration of Palestine.

* See Command Paper 1700. Nos. 5 and 7.

† Not printed.

2. His Majesty's Government fully share the opinion expressed by Cardinal Gasparri that article 22 of the Covenant of the League of Nations would be incompatible with a mandate that proved to be an instrument for the subjection of the native populations for the benefit of another nationality. That they associate themselves with this view is clear from the interpretation which they place upon the declaration originally made on the 2nd November, 1917, by the British Government and accepted by the other Allied 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.

His Majesty's Principal Secretary of State for the Colonies has defined this interpretation in the statement enclosed with his letter of the 3rd June to the Secretary of the Zionist Organisation, and the Organisation have accepted it in their reply of the 18th June. The Council will observe that His Majesty's Government contemplate that the status of all citizens of Palestine in the eyes of the law shall be Palestinian, and that it has never been intended that they or any section of them should possess any other juridical status.

3. As the Secretary of State for the Colonies has pointed out in the statement referred to above, the special position assigned to the Zionist Organisation in article 4 of the draft mandate for Palestine does not imply any administrative functions. That special position relates to the measures to be taken in Palestine affecting the Jewish population, and contemplates that the Organisation may assist in the general development of the country, but does not entitle it to share in any degree in its government. The draft Order in Council providing for the administration of Palestine does not even refer to the existence either of a Jewish agency or of the Zionist Organisation, which has not desired to possess, and does not possess, any share in the general administration of the country.

4. The immigration of Jews and their close settlement upon the land, including State lands and waste lands not required for public purposes, are integral and indispensable factors in the execution of the charge laid upon the mandatory of establishing in Palestine a national home for the Jewish people. Article 6 of the draft mandate, which provides for these measures and which is quoted by Cardinal Gasparri, expressly reaffirms that the rights and position of other sections of the population must not thereby be prejudiced.

The acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine, which is provided for in article 7 of the draft mandate to which the Cardinal Secretary of State also refers in his letter, is designed to emphasise the policy, to which reference has already been made, that the status of all citizens of Palestine in the eyes of the law shall be Palestinian, and is therefore a safeguard against the very injury which the Cardinal Secretary of State anticipates will result from it.

5. Cardinal Gasparri also alludes to article 11 of the draft mandate in support of his contention that the Jews are to be given a privileged and preponderating position as against other nationalities and creeds. His Majesty's Government regard the provision by

which the Administration may arrange with the Jewish agency mentioned in article 4 to construct or operate upon fair and equitable terms any public works, services and utilities, and to develop any of the natural resources of the country in so far as these matters are not directly undertaken by the Administration, as a legitimate recognition of the special situation which arises in Palestine from the charge which has been laid upon them by the Principal Allied Powers, and also of the fact that the Jewish people, in virtue of that policy, are ready and willing to contribute by their resources and efforts to develop the country for the good of all its inhabitants.

6. His Majesty's Government invite the attention of the Council of the League of Nations to article 18 of the draft Palestine Order in Council, which provides that no ordinance shall be passed by the Legislative Council which shall restrict complete freedom of conscience and the free exercise of all forms of worship, save in so far as is required for the maintenance of public order and morals, or which shall tend to discriminate in any way between the inhabitants of Palestine on the ground of race, religion or language. It also provides that no ordinance shall be passed which shall in any way be repugnant to or inconsistent with the provisions of the mandate to be issued for Palestine.

7. Article 26 of the same draft Order provides that the High Commissioner shall in any case reserve for the signification of the pleasure of His Majesty any ordinance passed by the Legislative Council which concerns matters dealt with specifically by the provisions of the mandate.

8. Article 86 of the same document provides for appeals to the Council of the League of Nations by any religious community or considerable section of the population in Palestine which complains that the terms of the mandate are not being fulfilled. His Majesty's Government are confident that the Council will agree that these provisions taken together provide ample safeguards against the risk that any nationality or creed will be subordinated in any way to any other.

9. As regards the second point raised by the Cardinal Secretary of State, namely, the provision of adequate safeguards for the rights of the Christian denominations, His Majesty's Government offer the following observations. In so far as civil and political rights are concerned, it will be apparent to the Council from what has already been said that the apprehensions of the Cardinal Secretary of State are unfounded. With regard to religious rights, His Majesty's Government invite the attention of the Council to the provisions of articles 54 and 83 of the draft Palestine Order in Council, which provide for the jurisdiction of the Christian religious courts and for the enjoyment by each religious community recognised by the Government of autonomy for the internal affairs of the community, subject to the provisions of any order or ordinance issued by the High Commissioner.

His Majesty's Government are anxious to ensure that no religious community shall feel any apprehensions as to the position of its adherents in Palestine under the British mandate. They are conscious that Palestine is the centre of a variety of religious interests, each one of which, considered separately, is world wide,

As a Christian Power they are fully alive to the paramount necessity of ensuring to all Christian communities the consciousness that nothing will be done in Palestine which might be construed as negligence of or indifference to Christian sentiment.

10. They have carefully considered the observations offered by the Cardinal Secretary of State on article 14 of the draft mandate in its present form, and in order to remove all possible ground for apprehension have prepared an alternative draft, of which a copy is enclosed. For the purpose of ensuring that the delicate task of deciding what are the existing rights in the Holy Places and religious buildings or sites, which His Britannic Majesty as mandatory for Palestine is responsible for protecting, should be entrusted to a body of whose impartiality there can be no question, they now suggest, not only that the composition of the commission shall be subject to the approval of the Council of the League of Nations, but that any report made by them shall also be laid before the Council of the League for confirmation.

11. As a further means towards ensuring absolute impartiality, His Majesty's Government would be prepared, if the Council of the League approved this course, to select nominees for the commission from a panel put forward in the first place under some international procedure, whether by the Assembly or Council of the League of Nations, or by the President of the Court of International Justice, while reserving to themselves the right to submit additional names for stated reasons to the Council of the League for approval. The panel should in their opinion be composed of persons of world-wide reputation, to be selected in such a way that the commission would be a thoroughly representative international body, on which none of the Great Powers interested in Palestine and none of the three confessions, namely, Christian, Mohammedan and Jew, would be without representation. His Majesty's Government would also invite the Council of the League to appoint one of the members of the commission as its first chairman, by whatever procedure commends itself to the council.

12. The Council will observe that His Majesty's Government do not propose in the draft article, which is now enclosed, to retain the obligation that the commission shall necessarily ensure that certain Holy Places, religious buildings or sites are entrusted to the permanent control of suitable bodies. Nor have they attempted to define the exact number of members of whom the commission shall be composed, beyond providing that the body shall be sufficiently large to ensure all interests being represented upon it.

13. The reason which has prompted His Majesty's Government to suggest that prospective nominees shall be recommended under some international procedure rather than by political or hierarchical authorities is that it appears to them preferable that a body to which this responsible task is to be entrusted should not be composed of persons who might possibly be regarded as agents of a particular Power or community whose interests might be directly concerned. Political interests are fully safeguarded by the provisions that the appointment of the commission shall be subject to the approval of the Council of the League of Nations, and that all reports presented by the commission shall require their confirmation. Religious interests are

equally well protected by the provisions that the commission shall be in consultation with representatives of the confessions concerned, and that any religious confession which considers that the mandatory is not giving effect to the provisions of the report may appeal to the Council of the League of Nations, who may require the mandatory to reassemble the commission.

14. His Majesty's Government confidently expect that the Great Powers and confessions who are interested in Palestine, and who will, it is hoped, also be represented upon the commission, will realise that the traditional policy of His Majesty's Government, its application in Palestine, and the proposals now put forward for the Holy Places Commission are such as to dispel all legitimate apprehensions. They invite the Council to agree that no further political or religious safeguard is either necessary or practicable.

Annex.

ARTICLE 14.

In order to determine the existing rights in the Holy Places and religious buildings or sites in Palestine, which the mandatory is pledged under the preceding article to maintain, a commission consisting of not less than seven members shall be appointed by the mandatory, subject to the approval of the Council of the League of Nations. The duty of the commission shall be to frame a report defining these rights, including rights of ownership, user and access. The report shall be laid before the Council of the League of Nations for confirmation, and when confirmed shall be binding on the mandatory.

In the preparation of their report the commission will consider all conflicting claims to any of the Holy Places and religious buildings or sites, and will endeavour in consultation with representatives of the confessions concerned to arrive at an agreed definition of existing rights. If no agreement can be arrived at within a period to be fixed in each case by the commission, the commission after hearing all parties shall decide judicially on the claims of which it has had notice and shall embody such decisions in their report.

The report of the commission may also contain recommendations for ensuring that certain Holy Places, religious buildings or sites which the commission finds to be regarded with special veneration by the adherents of one particular religion are entrusted to the permanent control of suitable bodies representing the adherents of the religion concerned.

Such control will be guaranteed by the League of Nations.

The commission will settle its own procedure and shall appoint its own staff. Each member of the commission will in turn act as chairman of the commission. The expenses of the commission shall be defrayed by the League of Nations.

In all cases dealt with under this article, the right and duty of the mandatory to maintain order and decorum in the place concerned shall not be affected, and the buildings and sites will be subject to the provisions of such laws relating to public monuments as may be enacted in Palestine with the approval of the mandatory.

Any religious confession which considers that the mandatory is not giving effect to the provisions of the report may appeal to the Council of the League who may require the mandatory to reassemble the commission for the purpose of considering and reporting upon any such appeal. Such report shall be laid before the Council of the League of Nations for confirmation, and when confirmed shall be binding on the mandatory.