

5. Par ailleurs, le Gouvernement français ne peut partager le point de vue du Gouvernement britannique touchant l'octroi, pour des raisons d'équité, d'un traitement préférentiel aux porteurs britanniques.

Du moment que n'est pas contestée, en droit, l'assimilation faite entre les porteurs des deux tranches d'un même emprunt émis simultanément à Londres et à Paris, le Gouvernement de la République estimerait inéquitable de réserver à certains porteurs des avantages qui ne seraient pas immédiatement étendus à tous les autres. Tous les souscripteurs ont entendu faire la même opération; ils en ont attendu les mêmes avantages et ont pris les mêmes risques, n'ignorant pas qu'il s'agissait d'emprunts libellés dans une monnaie déjà dépréciée par rapport à l'or; il est juste qu'ils suivent le même sort. Cette assimilation répond précisément, aux yeux du Gouvernement français, au principe d'équité dont il doit s'inspirer en la matière.

6. D'après la Constitution française, l'arbitrage proposé ne serait possible qu'en vertu d'un compromis qui, engageant les finances de l'État, devrait, avant ratification, être soumis à l'approbation du Parlement. Pour les considérations ci-dessus développées, le Gouvernement ne peut envisager de demander au Parlement de consentir à une pareille procédure.

7. Le Gouvernement de la République n'a pas besoin d'insister sur le fait qu'il regrette les pertes subies par ceux des porteurs britanniques qui ont, dès l'origine, souscrit aux emprunts français sans aucune idée de spéculation. Il a, toutefois, conscience de n'en être en aucune façon responsable. Cet état de choses dont souffrent les porteurs français comme les porteurs britanniques, est dû à des causes générales, devant lesquelles la nation française tout entière, et bien contre son gré, a dû accepter en définitive de s'incliner.

8. Le Gouvernement de la République n'a, en ce qui le concerne, aucune objection à la publication des quatre notes échangées, sur la présente question, entre les deux Gouvernements. L'opinion publique britannique comprendra, il en est persuadé, que son refus d'accéder à la proposition du Gouvernement de Sa Majesté ne lui est pas dicté par des considérations égoïstes, mais par le légitime souci de ne pas remettre en cause, alors qu'aucune raison de droit ni d'équité ne l'y oblige, une réforme qui a assuré sa stabilité monétaire.

## 6. Zur englischen Palästina-Politik.

Brief des britischen Premierministers MacDonald an Herrn Dr. Weizmann, den Präsidenten der Jewish Agency <sup>1) 2)</sup>.

10. Downing Street, Whitehall, 13th February, 1931.

Dear Dr. Weizmann,

<sup>1)</sup> Parl. Deb. H. o. C. 13. Feb. 1931. Hansard, 5<sup>th</sup> ser., vol. 248, p. 751—757.

<sup>2)</sup> Weitere Urkunden: Report of the Commission on the Palestine Disturbances of August, 1929 (Shaw Commission). March 1930. Cmd. 3530 (1930) — Palestine. Statement with regard to British Policy. May 1930. Cmd. 3582 (1930) — Palestine.

In order to remove certain misconceptions and misunderstandings which have arisen as to the policy of His Majesty's Government with regard to Palestine, as set forth in the White Paper of October, 1930, and which were the subject of a Debate in the House of Commons on the 17th November, and also to meet certain criticisms put forward by the Jewish Agency, I have pleasure in forwarding you the following statement of our position, which will fall to be read as the authoritative interpretation of the White Paper on the matters with which this letter deals.

2. It has been said that the policy of His Majesty's Government involves a serious departure from the obligations of the Mandate as hitherto understood, that it misconceives the Mandatory obligations, and that it foreshadows a policy which is inconsistent with the obligations of the Mandatory to the Jewish people.

3. His Majesty's Government did not regard it as necessary to quote *in extenso* the declarations of policy which have been previously made, but attention is drawn to the fact that, not only does the White Paper of 1930 refer to and endorse the White Paper of 1922, which has been accepted by the Jewish Agency, but it recognises that the undertaking of the Mandate is an undertaking to the Jewish people and not only to the Jewish population of Palestine. The White Paper placed in the foreground of its statement my speech in the House of Commons on the 3rd April, 1930, in which I announced in words which could not have been made more plain, that it was the intention of His Majesty's Government to continue to administer Palestine in accordance with the terms of the Mandate as approved by the Council of the League of Nations. That position has been reaffirmed and again made plain by my speech in the House of Commons on the 17th November. In my speech on the 3rd April I used the following language:—

“His Majesty's Government will continue to administer Palestine in accordance with the terms of the Mandate as approved by the Council of the League of Nations. This is an international obligation from which there can be no question of receding.

“Under the terms of the Mandate His Majesty's Government are responsible for promoting the establishment in Palestine of a National Home for the Jewish people, it being clearly understood that nothing shall 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.

“A double undertaking is involved, to the Jewish people on the one hand, and to the non-Jewish population of Palestine on the other: and it is the firm resolve of His Majesty's Government to give effect

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Report on Immigration, Land Settlement and Development by Sir John Hope Simpson. October 1930. Cmd. 3686, 3687 (1930) — Palestine. Statement of Policy by His Majesty's Government in the United Kingdom. October 1930. Cmd. 3692 (1930) — Bericht der Mandatskommission des Völkerbunds vom 8. Sept. 1930: Journ. Off. Nov. 1930, S. 1326 ff. — Die Balfour Declaration s. u. S. 234/5.

in equal measure, to both parts of the Declaration, and to do equal justice to all sections of the population of Palestine. That is a duty from which they will not shrink, and to the discharge of which they will apply all the resources at their command“.

That declaration is in conformity not only with the articles, but also with preamble of the Mandate, which is hereby explicitly reaffirmed.

4. In carrying out the policy of the Mandate the Mandatory cannot ignore the existence of differing interests and view-points. These, indeed, are not in themselves irreconcilable, but they can only be reconciled if there is a proper realisation that the full solution of the problem depends on an understanding between the Jews and the Arabs. Until that is reached, considerations of balance must inevitably enter into the definition of policy.

5. A good deal of criticism has been directed to the White Paper upon the assertion that it contains injurious allegations against the Jewish people and Jewish Labour organisation. Any such intention on the part of His Majesty's Government is expressly disavowed. It is recognised that the Jewish Agency have all along given willing co-operation in carrying out the policy of the Mandate, and that the constructive work done by the Jewish people in Palestine has had beneficial effects on the development and well-being of the country as a whole. His Majesty's Government also recognise the value of the services of labour and trades union organisation in Palestine, to which they desire to give every encouragement.

6. A question has arisen as to the meaning to be attached to the words "safeguarding the civil and religious rights of all inhabitants of Palestine, irrespective of race and religion", occurring in article 2, and the words "ensuring that the rights and position of other sections of the population are not prejudiced", occurring in article 6 of the Mandate. The words "safeguarding the civil and religious rights", occurring in article 2, cannot be read as meaning that the civil and religious rights of individual citizens are to be unalterable. In the case of Suleiman Murra, to which reference has been made, the Privy Council, in construing these words of article 2, said: "It does not mean . . . that all the civil rights of every inhabitant of Palestine which existed at the date of the Mandate are to remain unaltered throughout its duration; for if this were to be a condition of the Mandatory jurisdiction, no effective legislation would be possible." The words, accordingly, must be read in another sense, and the key to the true purpose and meaning of the sentence is to be found in the concluding words of the article: "irrespective of race and religion". These words indicate that, in respect of civil and religious rights, the Mandatory is not to discriminate between persons on the ground of religion or race, and this protective provision applies equally to Jews, Arabs, and all sections of the population.

7. The words "rights and position of other sections of the population", occurring in article 6, plainly refer to the non-Jewish com-

munity. These rights and position are not to be prejudiced, that is, are not to be impaired or made worse. The effect of the policy of immigration and settlement on the economic position of the non-Jewish community cannot be excluded from consideration. But the words are not to be read as implying that existing economic conditions in Palestine should be crystallised. On the contrary, the obligation to facilitate Jewish immigration and to encourage close settlement by Jews on the land, remains a positive obligation of the Mandate, and it can be fulfilled without prejudice to the rights and position of other sections of the population of Palestine.

8. We may proceed to the contention that the Mandate has been reinterpreted in a manner highly prejudicial to Jewish interests in the vital matters of land settlement and immigration. It has been said that the policy of the White Paper would place an embargo upon immigration, and would suspend, if not, indeed, terminate, the close settlement of the Jews on the land, which is a primary purpose of the Mandate. In support of this contention particular stress has been laid upon the passage referring to State lands in the White Paper, which says that "it would not be possible to make these areas available for Jewish settlement in view of their actual occupation by Arab cultivators, and of the importance of making available additional land on which to place the Arab cultivators who are now landless".

9. The language of this passage needs to be read in the light of the policy as a whole. It is desirable to make it clear that the landless Arabs to whom it was intended to refer in this passage quoted, were such Arabs as can be shown to have been displaced from the lands which they occupied in consequence of the lands passing into Jewish hands, and who have not obtained other holdings on which they can establish themselves, or other equally satisfactory occupation. The number of such displaced Arabs must be a matter for careful inquiry. It is to landless Arabs within this category that His Majesty's Government feel themselves under an obligation to facilitate their settlement upon the land. The recognition of this obligation in no way detracts from the larger purposes of development, which His Majesty's Government regards as the most effectual means of furthering the establishment of a National Home for the Jews.

10. In framing a policy of land settlement, it is essential, that His Majesty's Government should take into consideration every circumstance that is relevant to the main purposes of the Mandate. The area of cultivable land, the possibilities of irrigation, the absorptive capacity of the country in relation to immigration are all elements pertinent to the issues to be elucidated, and the neglect of any one of them would be prejudicial to the formulation of a just and stable policy.

It is the intention of His Majesty's Government to institute an inquiry as soon as possible to ascertain, *inter alia*, what State and other lands are, or properly can be made, available for close settlement by Jews under reference to the obligation imposed upon the Mandatory

by article 6 of the Mandate. This inquiry will be comprehensive in its scope, and will include the whole land resources of Palestine. In the conduct of the inquiry provision will be made for all interests, whether Jewish or Arab, making such representations as it may be desired to put forward.

11. The question of the congestion amongst the fellahin in the hill districts of Palestine is receiving the careful consideration of His Majesty's Government. It is contemplated that measures will be devised for the improvement and intensive development of the land, and for bringing into cultivation areas which hitherto may have remained uncultivated, and thereby securing to the fellahin a better standard of living, without, save in exceptional cases, having recourse to transfer.

12. In giving effect to the policy of land settlement, as contemplated in article 11 of the Mandate, it is necessary, if disorganisation is to be avoided, and if the policy is to have a chance to succeed, that there should exist some centralised control of transactions relating to the acquisition and transfer of land during such interim period as may reasonably be necessary to place the development scheme upon a sure foundation. The power contemplated is regulative and not prohibitory, although it does involve a power to prevent transactions which are inconsistent with the tenor of the scheme. But the exercise of the power will be limited and in no respect arbitrary. In every case it will be conditioned by considerations as to how best to give effect to the purposes of the Mandate. Any control contemplated will be fenced with due safeguards to secure as little interference as possible with the free transfer of land. The centralised control will take effect as from such date only as the authority charged with the duty of carrying out the policy of land development shall begin to operate. The High Commissioner will, pending the establishment of such centralised control, have full power to take all steps necessary to protect the tenancy and occupancy rights, including the rights of squatters, throughout Palestine.

13. Further, the statement of policy of His Majesty's Government did not imply a prohibition of acquisition of additional land by Jews. It contains no such prohibition, nor is any such intended. What it does contemplate is such temporary control of land disposition and transfers as may be necessary not to impair the harmony and effectiveness of the scheme of land settlement to be undertaken. His Majesty's Government feel bound to point out that they alone of the Governments which have been responsible for the administration of Palestine since the acceptance of the Mandate have declared their definite intention to initiate an active policy of development which it is believed will result in substantial and lasting benefit to both Jews and Arabs.

14. Cognate to this question is the control of immigration. It must, first of all, be pointed out that such control is not in any sense a departure from previous policy. From 1920 onwards, when the original Immigration Ordinance came into force, regulations for the control

of immigration have been issued from time to time, directed to prevent illicit entry and to define and facilitate authorised entry. This right of regulation has at no time been challenged.

15. But the intention of His Majesty's Government appears to have been represented as being that "no further immigration of Jews is to be permitted so long as it might prevent any Arab from obtaining employment". His Majesty's Government never proposed to pursue such a policy. They were concerned to state that, in the regulation of Jewish immigration, the following principles should apply, namely, that "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" (White Paper, 1922). In the one aspect His Majesty's Government have to be mindful of their obligations to facilitate Jewish immigration under suitable conditions, and to encourage close settlement of Jews on the land: in the other aspect they have to be equally mindful of their duty to ensure that no prejudice results to the rights and position of the non-Jewish community. It is because of this apparent conflict of obligations that His Majesty's Government have felt bound to emphasise the necessity of the proper application of the absorptive capacity principle. That principle is vital to any scheme of development, the primary purpose of which must be the settlement both of Jews and of displaced Arabs upon the land. It is for that reason that His Majesty's Government have insisted, and are compelled to insist, that Government control of immigration must be maintained and that immigration regulations must be properly applied. The considerations relevant to the limits of absorptive capacity are purely economic considerations.

16. His Majesty's Government did not prescribe and do not contemplate any stoppage or prohibition of Jewish immigration in any of its categories. The practice of sanctioning a "Labour Schedule" of wage-earning immigrants will continue. In each case consideration will be given to anticipated labour requirements for work which, being dependent on Jewish or mainly Jewish capital, would not be or would not have been undertaken unless Jewish labour was made available. With regard to public and municipal works falling to be financed out of public funds, the claim of Jewish labour to a due share of the employment available, taking into account Jewish contributions to public revenue, shall be taken into consideration. As regards other kinds of employment, it will be necessary in each case to take into account the factors bearing upon the demand for labour, including the factor of unemployment amongst both the Jews and the Arabs. Immigrants with prospects of employment other than employment of a purely ephemeral character will not be excluded on the sole ground that the employment cannot be guaranteed to be of unlimited duration.

17. In determining the extent to which immigration at any time may be permitted, it is necessary also to have regard to the declared

policy of the Jewish Agency to the effect that in "all the works of undertakings carried out or furthered by the Agency it shall be deemed to be a matter of principle that Jewish labour shall be employed". His Majesty's Government do not in any way challenge the right of the Agency to formulate or approve and endorse such a policy. The principle of preferential and, indeed, exclusive employment of Jewish labour by Jewish organisations is a principle which the Jewish Agency are entitled to affirm. But it must be pointed out that if in consequence of this policy Arab labour is displaced or existing unemployment becomes aggravated, that is a factor in the situation to which the Mandatory is bound to have regard.

18. His Majesty's Government desire to say finally, as they have repeatedly and unequivocally affirmed, that the obligations imposed upon the Mandatory, by its acceptance of the Mandate, are solemn international obligations, from which there is not now, nor has there been at any time, an intention to depart. To the tasks imposed by the Mandate His Majesty's Government have set their hand, and they will not withdraw it. But if their efforts are to be successful there is need for co-operation, confidence, readiness on all sides to appreciate the difficulties and complexities of the problem, and, above all, there must be a full and unqualified recognition that no solution can be satisfactory or permanent which is not based upon justice, both to the Jewish people and to the non-Jewish communities of Palestine.

I am, my dear Dr. Weizmann,

Yours very sincerely,

(Signed) J. RAMSAY MACDONALD."

"The President  
of the Jewish Agency."

Anhang.

**Brief des britischen Außenministers Balfour an Lord Rothschild, enthaltend die sogenannte Balfour-Deklaration vom 2. November 1917<sup>3)</sup>.**

„Foreign Office,

November 2nd, 1917.

„Dear Lord Rothschild,

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet:

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice

<sup>3)</sup> "Speeches on Zionism" by the Earl of Balfour, ed. by Israel Cohen, London 1928; p. 19.

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."

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours sincerely,

Arthur James BALFOUR."

## 7. Der chinesisch-japanische Konflikt und die Rechtsgrundlage der japanischen Stellung in den drei Ostprovinzen Chinas (Mandschurei).

Hellmut Wilhelm

Der überraschende Einfall japanischer Truppen in das Gebiet der drei chinesischen Ostprovinzen im September 1931 veranlaßte die chinesische Regierung, in einer an den Generalsekretär des Völkerbundes gerichteten Note vom 21. September 1931 die Einberufung des Rates gemäß Art. 11 der Satzung zu verlangen<sup>1)</sup>. In seiner Schlußsitzung am 30. September nahm der Rat einstimmig eine EntschlieÙung an, in der er u. a. Kenntnis nimmt von der japanischen Erklärung, den bereits begonnenen Rückzug der japanischen Truppen in die Eisenbahnzone so rasch wie möglich fortzusetzen, soweit die Sicherheit des Lebens der japanischen Staatsangehörigen in der Mandschurei und der Schutz ihres Eigentums wirksam gewährleistet ist, und von der Erklärung des chinesischen Vertreters, wonach die chinesische Regierung die Verantwortung für Sicherheit und Schutz in dem geräumten Gebiet übernimmt. Gleichzeitig wurde eine neue Sitzung auf den 14. Oktober 1931 festgesetzt<sup>2)</sup>. In dieser wurde zunächst eine Einladung an die Regierung der Vereinigten Staaten von Amerika »à envoyer un représentant s'associer aux efforts du Conseil en prenant place à sa table« mit 13 Stimmen gegen die Stimme Japans beschlossen<sup>3)</sup>, und, ebenfalls gegen die japanische Stimme, eine EntschlieÙung angenommen, in der nunmehr der Rückzug der japanischen Truppen verlangt und den Parteien die Bildung einer »Commission de conciliation« oder eines ähnlichen ständigen Vergleichsorganes angeraten wird<sup>4)</sup>.

<sup>1)</sup> Appel du Gouvernement Chinois en vertu de l'article 11 du Pacte (Société des Nations C. 585. M. 232. 1931. VII). — Dem Auswärtigen Amt bin ich für die gütige Gewährung von Akteneinsicht zu Dank verpflichtet.

<sup>2)</sup> Abdruck der Ratsentscheidung in »L'Europe Nouvelle« 1931, S. 1353.

<sup>3)</sup> Procès-verbal provisoire de la dixième Séance (privée), tenue le jeudi 15 Octobre 1931 à 17 heures 30, (Société des Nations C (65 e Session) P. V. 10, S. 23).

<sup>4)</sup> Der Text dieser EntschlieÙung lautet: Le Conseil, comme suite à sa résolution du 30 septembre, constatant qu'en plus de l'appel fait par le Gouvernement chinois en vertu de l'article 11 du Pacte, l'article 2 du Pacte de Paris a été invoqué par un certain nombre de gouvernements,

1. Rapelle les engagements pris par les deux Gouvernements dans la Résolution du 30 septembre, notamment la déclaration du Représentant du Japon selon laquelle