MEMORANDUM ON THE 1939 WHITE PAPER ON PALESTINE

Submitted to

His Excellency, the Rt. Hon. the Viscount Halifax
Ambassador of Great Britain

by

The American Jewish Committee

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With full cognizance of the historic friendship of the people of Great Britain and their successive Governments for Jews, which has made them pioneers in the establishment of equal rights for Jews within the confines of their own country, as well as staunch spokesmen for justice when oppression and persecution pursued the Jews elsewhere, the American Jewish Committee is impelled to press for attention to the situation created by the White Paper of 1939.

In line with that historic policy, the British Government on November 2, 1917 issued the Balfour Declaration, offering hope to persecuted segments of the Jews throughout the world that they might find a home in the country with which they had an ancient bond.

Following the First World War, after the military victory for the Allied Powers and the subsequent liberation of the Near East, the promise of the Balfour Declaration was included in the Mandate for Palestine, which was entrusted to Great Britain by the League of Nations on July 24, 1922. The primary purpose of the Mandate was the establishment of a national home for the Jews with the understanding that nothing be done to prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status of Jews in any other country. This promise of a homeland within Palestine was specific and admitted. It was not controversial as is the question of the creation of a commonwealth,
Acknowledging the historical connection of the Jews with Palestine, the Mandate holds the Mandatory responsible for securing development of self-governing institutions. It provides for the encouragement, so far as circumstances permit, of local autonomy, and the recognition of an appropriate Jewish agency to advise and cooperate with the Administration of Palestine. The Mandate makes it obligatory upon Great Britain "to facilitate Jewish immigration" and to encourage close settlement by Jews on the land. The holy days of the various religions of the country are made legal rest days; each community in Palestine is to be allowed to maintain its own schools; English, Hebrew and Arabic are made the official languages of the country. No discrimination of any kind, on the ground of race, religion or language, is to be made between the inhabitants of Palestine. "No person shall be excluded from Palestine on the sole ground of his religious belief."

Within the terms of the Mandate, principles on which immigration is to be "facilitated" are not defined. Shortly before the signing of the Mandate, however, a Statement of Policy was issued on June 3, 1922, by Mr. Winston Churchill, then Secretary for Colonies, in which the principle of economic absorptive capacity was established as the sole criterion for Jewish immigration into Palestine. This Statement became the interpretation on which the Mandate was subsequently put into effect.

When this Statement was issued by Mr. Churchill, there
were already some 80,000 Jews in Palestine, living in an
organized community with a certain amount of self-government
in local affairs. These Jews and all those who would enter
subsequently would be in Palestine, in Mr. Churchill's words,
"as of right and not on sufferance."

Except for an episode which occurred in 1930, the British
Government adhered to the principle of economic absorptive
capacity as the sole criterion for immigration. The one excep-
tion was provoked by the disturbances in Palestine in 1929.
In a 1930 Statement of Policy, known as the Passfield White
Paper, the British Government proposed to discard the principle
of economic absorptive capacity and to reduce immigration
drastically on political grounds. But British public opinion
at the time was highly adverse to this project. The present
Lord Chancellor, then Sir John Simon, and Lord Hailsham suggested
in a letter to the Times that the British Government should
induce the Council of the League of Nations to obtain from the
World Court an advisory opinion on whether the restriction of
immigration on political grounds is consistent with the Mandate
and asked that the British Government should not enforce the
measure without a decision of the Court. Mr. David Lloyd George,
who was Prime Minister of Great Britain at the time of the
Balfour Declaration, speaking in the House of Commons in 1930,
described the dominant idea of the Mandate as the "recognition
of the special position of the Jewish people in the country
whose name they have made immortal, and the conferring on them
of special rights and interests in that country,"
As a result of this opposition, the British Government virtually withdrew the Passfield White Paper. Mr. Ramsey MacDonald, the Prime Minister, reiterated that "the considerations relevant to the limits of absorptive capacity are purely economic considerations."

Moved by the disturbances in Palestine in 1936, the British Government established a quota of 8,000 Jewish immigrants to Palestine for the eight months following August 1, 1937. Confronted with the situation, the Mandates Commission of the League of Nations again reaffirmed that the limitation of Jewish immigration to Palestine on other than the principle of economic absorptive capacity was not in accordance with the meaning of the Palestine Mandate. The Mandates Commission drew attention to the fact that this departure from the principle of economic absorptive capacity was acceptable only as a temporary measure. "The Commission does not question that the Mandatory Power, responsible as it is for the maintenance of order in the territory may, on occasion, find it advisable to take such a step, and is competent to do so, as an exceptional provisional measure,... It feels, however, bound to draw attention to this departure from the principle, sanctioned by the League Council, that immigration is to be proportionate to the country's economic absorptive capacity."

By 1937, the Jewish population of Palestine had risen to about 400,000. The immigrants, utilizing their own enthusiasms and energies, and drawing on the encouragement and support of Jews throughout the world, had brought Palestine to great heights of development, Arabs as well as Jews had benefited from high-
ways, modern housing, exemplary hygienic provisions, and -- above all -- from the introduction of economic efficiency and new methods of agriculture that had turned arid stretches into fertile fields, vineyards and orchards. Speaking before the House of Commons on the progress made in Palestine, Mr. Malcolm MacDonald, Secretary for Colonies, said, in 1939:

"... the manner of their return has indeed been something of a miracle. There are places where they have turned the desert into spacious orange groves. Where was a bare seashore, they have made a city. They have advanced the frontier of settlement into waste and plague-ridden spaces. Wherever they bought up the land they made it produce its fruits more abundantly, and they have started in Palestine a score of thriving industries.

"There was no denying that Jewish immigration and Jewish development in Palestine were bringing great material benefits to the country. Industry and employment increased, and the revenue from this expansion went to create social services such as the country had not known before. The Arabs shared the greater well-being which flowed from these services. Under the new dispensation, unlike the old Palestine, the population of the Arabs increased in something like twenty years from 800,000 souls to over 1,000,000 souls."

The contribution in human energy and material resources which the Jewish immigrants to Palestine, and their friends throughout the world, gave to the renaissance of the country was inspired by the confidence that the future of Jewish existence there would be allowed to maintain the pace of accom-
plishment and fulfillment which had been envisioned in the docu-
ments of 1917 and 1922, the reaffirmation of the British people
and successive British Governments.

To them the 1939 White Paper was a setback and a shock.
The British Government sought justification for the issuance
of the White Paper on May 17, 1939 in the increasingly dis-
turbed situation of the world, which affected the Near East
with equal intensity. Arab resentments, admittedly fed by Axis
propaganda (the ex-Mufti is now a Berlin favorite) had not been
abated by the immigration curtailment of 1937. War was in-
dubitably imminent, and it may be assumed that this temporary
circumstance activated the British Government.

The White Paper fixes the proportion of Jews in Palestine
as approximately one-third of the total population by providing
that until March 1944, during the first five years of the transi-
tion period, not more than 75,000 Jews be admitted to the
country. Thereafter, unless Arab acquiescence for its con-
tinuance is obtained, further Jewish immigration is to be pro-
hibited. Before the publication of the White Paper, it had
never been doubted that the Balfour Declaration and the Mandate
were primarily intended to provide the Jews with continued im-
migration possibilities into Palestine.

The White Paper further provides that the High Commis-
sioner be given powers to regulate and prohibit the transfer of
land to Jews. On the basis of this authority, the Palestine
Land Transfer Regulations of February 28, 1940 were issued.
In these Regulations, Palestine was divided into three zones. In Zone A, comprising 4,104,000 acres, or about 63.1 per cent of the total area, transfer of land by an Arab to a Jew is altogether prohibited. In Zone B, consisting of 2,067,840 acres, or 31.8 per cent of the total area, land transfers from Arabs to Jews may be allowed under special circumstances at the discretion of the High Commissioner. Only in the so-called "free zone", comprising 332,160 acres, or 5.1 per cent of the total area, do land transfers remain unrestricted.

According to the Land Transfer Regulations, Jews -- even those who are citizens of Palestine -- will not be allowed to buy land in nearly 95 per cent of the total area of the country. Others, whether they are citizens of Palestine or foreigners, retain unrestricted purchase rights.

The Mandate, in Article 15, states that "no discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the ground of his religious belief." In providing for the cessation of Jewish immigration, and in barring the Jews from land purchases in large areas of Palestine, the White Paper is not only inconsistent with the Mandate's terms, but would make Palestine a country in which Jews are discriminated against on the basis of race or religion. The American Jewish Committee does not press the question of a commonwealth; it does urge that the discrimination against Jews as such with respect to land ownership and immigration is wrong in principle and a violation of the legal duty of the Mandatory.
Under the international political uncertainty which motivated the issuance of the White Paper, the House of Commons, by a small majority, approved its policy. Mr. Winston Churchill, opposing the White Paper during the debate that preceded the vote, said: "... the provision that Jewish immigration can be stopped in five years' time by the decision of an Arab majority ... is a plain breach of a solemn obligation.... This pledge of a home of refuge, of an asylum, was not made to the Jews in Palestine but to the Jews outside Palestine, to that vast unhappy mass of scattered, persecuted, wandering Jews whose intense, unchanging, unconquerable desire has been for a National Home.... Now, there is the breach, there is the violation of the pledge, there is the abandonment of the Balfour Declaration; there is the end of the vision, of the hope, of the dream.... Yesterday the Minister responsible descanted eloquently in glowing passages upon the magnificent work which the Jewish colonists have done. They have made the desert bloom. They have started a score of thriving industries.... They have founded a great city on a barren shore. They have harnessed the Jordan and spread its electricity throughout the land. So far from being persecuted, the Arabs have crowded into the country and multiplied till their population has increased more than even all world Jewry could lift up the Jewish population. Now we are asked to decree that all this is to stop and all this is to come to an end. We are now asked to submit -- and this is what rankles most with me -- to an agitation which is fed with foreign money and ceaselessly inflamed by Nazi and by Fascist propaganda."
Furthermore, the White Paper provides that the neighboring Arab States, not mentioned in the Mandate, are under certain circumstances to be consulted during the transformation of Palestine from a mandated territory to an independent state. On the other hand, it completely ignores the Jewish Agency, which had been the Jewish body advising and cooperating with the Palestine Administration, in accordance with the Mandate.

The Mandates Commission of the League of Nations, including a British member, unanimously decided that the policy was not in accordance with the interpretation which had been placed upon the Palestinian Mandate by the Commission. A majority of the Commission also stated that the interpretation given by the White Paper to the obligations contained in the Mandate was "ruled out by the very terms of the Mandate and by the fundamental intentions of its authors." War broke out before the Council of the League of Nations, which had hitherto always followed the advice and recommendations of the Commission, could examine the Commission's report.

Today, the situation which attended the issuance of the White Paper has been considerably changed. We believe the temporary conditions which motivated its issuance have passed. The Near East, recently chosen as the meeting place for the leaders of four great United Nations powers, is no longer in danger of Axis conquest. Amid the encouraging scene, however, millions of Jews who once lived in central and much of eastern Europe stand as symbols of the persecutions and the tyrannies that have made this war a holocaust of horror. The destruction
of Jews and the extent of their uprooting are greater than those to which other population groups have been subjected. Thousands, equipped only with the courage and the hope that sent their predecessors to Palestine from lesser hardships, but as assured as were their predecessors of the good-will and aid of Jews in other parts of the world, plead for the opportunity to utilize their creative energies in the country with which their people's history is so closely bound. Their admittance into that country, to live freely and securely, would be in the spirit of the Four Freedoms.

For Great Britain, in 1943, the tensions that made her deem the 1939 White Paper necessary are no longer so compelling. For the Jews to whom the Balfour Declaration was addressed and for whom the Mandate was evolved, has come unprecedented need that the possibilities envisioned in the Mandate be released from their present constraints.

The American Jewish Committee, which was organized primarily to "prevent the infraction of the civil and religious rights of Jews, in any part of the world... to secure for Jews equality of economic, social and educational opportunity...", does not at this time urge determination of the final constitutional status of Palestine; it does urge that the British Government re-examine the 1939 White Paper, considering such re-examination to be of the utmost urgency in the light of the present needs of European Jewry. The American Jewish Committee has from the beginning supported the Balfour Declaration as the legal sanction for the creation of a homeland for Jews within Palestine, and welcomed
the opportunity to cooperate with those who sought to establish in a rehabilitated Palestine a center for the development of Jewish life and for the continuation of cultural creativity. It seeks today the safeguarding of the Jewish settlement in, and Jewish immigration into, Palestine under an international trusteeship responsible to the United Nations; and a guarantee of adequate scope for the future expansion of the Jewish community in Palestine to the extent of the economic absorptive capacity of the country. It specially pleads for the abrogation of the White Paper which discriminates against Jews as such.

The American Jewish Committee is in full agreement with the position taken by Mr. Winston Churchill in 1939. The events of the past four years have served to emphasize the vision and wisdom of his attitude.

In view of all existing conditions -- political and humane -- the American Jewish Committee earnestly urges that His Majesty's Government should abrogate the 1939 White Paper.