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THE BALFOUR DECLARATION.

Great Britain governs Palestine under a Mandate received from the Council of the League of Nations. Discord and bloodshed are now marking the tenth year of the British Administration of the Holy Land and the eighth since the date of the Mandate. It is affirmed by competent observers that what is known as "The Balfour Declaration" is not foreign to this unrest. It is in the interest of peace and of the Jewish race that the validity of this definition of policy be carefully examined.

At the threshold of such an inquiry it is but proper that one should cite the exact text of the provision thus put under the microscope. It reads as follows:

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 that object, it being understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by the Jews in any other country.

This announcement was made by Lord (then Mr.) Balfour, on November 2, 1917.

The Arab world contends that this Balfour Declaration contravenes:

(1) Specific written and official assurances given to the Moslems and Christians of Palestine on October 24, 1915, by Sir Henry MacMahon in the name of the British Government, and

(2) the terms of a Joint Anglo-French proclamation dated November 7, 1918.

In other words, the Arabs of Palestine set off against the Balfour Declaration a British official promise which precedes it in date and another British official promise which is subsequent to the Balfour Declaration.

It would serve no useful purpose to analyse these conflicting contentions. Suffice it to say that the authors of the Treaty of Versailles foresaw the possibility of just such a contingency as is presented by these antagonistic citations of authority. The Delegates to the Peace Conference, accordingly, incorporated the following words into Article XX of the Covenant of the League of Nations:—

The 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 engagement inconsistent with the terms thereof.

In case 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.

This section of the Treaty of Versailles crystallized President Wilson's dominant idea that the world should be made safe for democracy. He desired that June 28, 1919, should constitute the starting point of a new era. He, therefore, saw to it that the Powers agreed that their acceptance of the Treaty of Versailles should automatically scrap all previous "obligations or undertakings" inconsistent with the provisions of the Covenant of the League.

This means that it is not necessary to inquire into what was promised to the Jews on November 2, 1917, or to the Arabs on October 24, 1915, and November 7, 1918. A clean slate was offered to the eyes of the world on June 28, 1919.

One must, therefore, start from this latter date when one analyses the legal aspects of the Balfour Declaration. It is valid in so far as it emanates from the general terms of the Treaty of Versailles.

Article XXII of this Pact reads as follows:

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 times as they are able to stand alone. The wishes of the communities will be a principal consideration in the selection of the Mandatory.

It was not until July 24, 1922, that the Mandate for Palestine was drafted. The Delegates to the Peace Conference had long ere this returned to their homes. It was the Council of the League of Nations which elaborated this provincial charter. It did so under authority delegated to it by the Covenant.

This Mandate sets forth that:

(1) The Principal Allied Powers have designated His Britannic Majesty as the Mandatory for Palestine and

(2) The Mandatory should be responsible for putting into effect the declaration originally made on November 2, 1917, 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.

Article II reads as follows:

The Mandatory shall be responsible for placing the country under such political administration as will secure the establishment of the Jewish National Home, as laid down in the preamble, and the development of self-governing institutions and also for safeguarding the civil and religious rights of all of the inhabitants of Palestine irrespective of race.

Article III ordains that "the Mandatory shall, as far as circumstances permit, encourage local autonomy." Article IV makes it the "duty of the administration of Palestine to facilitate Jewish immigration and close settlement by the Jews on the land." Article VII decrees that a nationality law shall be "framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up permanent residence in Palestine."

The various articles which have just been cited suggest the two following questions:—

(1) Do the terms of the Mandate show or do they not show an orientation of policy inconsistent with Article XXII of the Covenant of the League of Nations? And

(2) If they do, is this orientation of policy validly "nominated in the bond?"

In seeking to answer these enquiries, it is well to recall three salient facts. They may be thus summarised:—

(1) The Covenant of the League of Nations, which is the *Magna Charta* or Constitution as opposed to the provincial Charter of Palestine, declares that:

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent States can be provisionally recognized,

(2) Palestine is admittedly one of the communities envisaged by this language, and

(3) The Covenant of the League makes it the duty of the Mandatory to render administrative advice and assistance to the Holy Land until that country is "able to stand alone."

It is obvious that the organic law of Palestine, as opposed to its provincial charter, ordains that it is incumbent upon England, as the Mandatory, to work:

(a) not towards facilitating Jewish immigration and "close settlement by Jews on the land" and

(b) not towards encouraging "the acquisition of Palestinian citizenship by Jews who take up permanent residence in Palestine," but towards enabling the inhabitants of the Holy Land "to stand alone."

The population of Palestine in 1919 when the Covenant of the League was drafted, was made up of 700,000 Arabs and of 60,000 Jews. Of these 700,000 Arabs, 625,000 were Moslems and 75,000 Christians.

The present population of Palestine consists of 700,000 Arabs and of 100,000 Jews.

The minority of 100,000 demands that the terms of the provincial charter be lived up to the letter. The majority of 700,000 insists that the dispositions of the *Magna Charta* are paramount.

It is in the interests of the Jews of Palestine that the world should ponder over the legal aspects of the controversy which has turned the Holy Land into an armed camp and which threatens to convert that area into a vast Jewish cemetery. The fate of the Chosen People resident in Palestine hangs upon a slender thread. They can be saved from slaughter only by an armed garrison of British bayonets or by the repeal of the Balfour Declaration.

It is admiration for the race which gave Him Crucified to Mankind which inspires this inquiry into the judicial phase of one of the outstanding problems of the hour.

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