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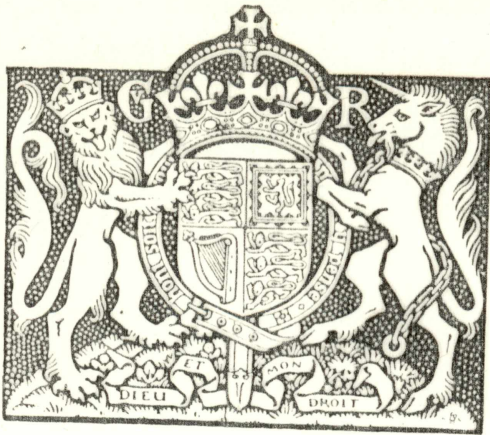
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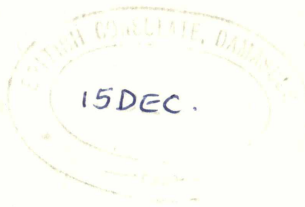
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# Official Gazette

OF THE

## Government of Palestine

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JERUSALEM

GAZETTE EXTRAORDINARY

11th December, 1928.

### The Western or Wailing Wall in Jerusalem

Memorandum by the Secretary of State for the Colonies

*Presented by the Secretary of State for the  
Colonies to Parliament by Command of His Majesty,  
November, 1928.*

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## THE WESTERN OR WAILING WALL IN JERUSALEM.

(Memorandum by the Secretary of State for the Colonies.)

The incidents which have given rise to the Jewish complaints and to questions in Parliament are described in the following *communiqué*, which was issued by the Palestine Government on the 26th of September last:-

"On the evening of the 23rd September, the eve of the Day of Atonement, a complaint was made to the Deputy District Commissioner, Jerusalem, by the Mutawali of the Abu Madian Waqf, in which the pavement and the whole area around the Western or Wailing Wall is vested, to the effect that a dividing screen had been affixed to the pavement adjoining the Wall, and that other innovations had been made in the established practice, such as the introduction of additional petrol lamps, a number of mats, and a tabernacle or ark much larger than was customary. The Deputy District Commissioner visited the Wall during the evening service, and, acting in accordance with the practice established by Government, decided that the screen would have to be removed before the service on the following day. He gave instructions accordingly to the beadle in charge of the arrangements for the conduct of the services at the Wall, reserving his decision in the matter of the lamps, the mats, and the ark. The beadle undertook to remove the screen and the Deputy District Commissioner gave him until early the following morning to do so. The Deputy District Commissioner accepted the beadle's assurance that his instructions would be carried out, at the same time informing the British Police Officer on duty that in the event of the beadle not complying with his undertaking the screen was to be removed.

On the following morning the Police Officer visited the Wall and, finding that the screen had not been removed, asked members of the congregation present to take it away; they replied that they were unable to move it because of the holiness of the day. The Police therefore removed the screen themselves. The worshippers in general, unaware of the circumstances that had gone before and seeing only the Police in the act of removing the screen which had been used to separate the men and the women, became excited and some of them endeavoured by force to prevent the screen being taken away. Ultimately the screen was removed.

The importation of the screen and its attachment to the pavement constituted an infraction of the *status quo*, which the Government were unable to permit. At the same time the Government deeply deplore the shock that was caused to large numbers of religious people on a day so holy to Jews. Government understand that the beadle responsible for the innovation which caused the incident has been dealt with by the Jewish authorities and on their side have impressed on the Jewish authorities the need, manifested in connexion with the incidents at the Wall in 1922 and 1925 and again on this occasion, for prior consultation with the proper officers of Government as to the arrangements for the services at the Wall on the principal Jewish holidays.

No Jewish Police Officer was present at the Wall on the occasion in question owing to all Jewish officers in Jerusalem having been excused duty for the Day of Atonement. Government will, however, consider the desirability of a responsible Jewish Officer being included in future among the officers detailed for duty at the Wall on solemn Jewish holy days.

In conclusion, Government consider that the removal of the screen was necessary, but regret all the circumstances attending that removal."

It will be seen that the intervention of the police was caused by an act of the Jewish authorities, which was regarded by the Palestine Government as constituting an infraction of the *status quo*. Before proceeding to an explanation of the *status quo* as it appears to the Palestine Government and His Majesty's Government, it is necessary to state briefly the position as it existed before the British Administration was set up in Palestine.

The Western or Wailing Wall formed part of the western exterior of the ancient Jewish Temple; as such, it is holy to the Jewish community, and their custom of praying there extends back to the Middle Ages and possibly further. The Wall is also part of the Haram-al-Sharif; as such, it is holy to Moslems.



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Moreover, it is legally the absolute property of the Moslem community, and the strip of pavement facing it is Waqf property, as is shown by documents preserved by the Guardian of the Waqf. The Jewish community have established an undoubted right of access to the pavement for the purposes of their devotions but, whenever protests were made by the Moslem authorities, the Turkish authorities repeatedly ruled that they would not permit such departures from the existing practice as the bringing of chairs and benches to the pavement. It is understood that a ruling prohibiting the bringing of screens to the pavement was given in 1912.

The Palestine Government and His Majesty's Government, having in mind the terms of Article 13 of the Mandate for Palestine, have taken the view that the matter is one in which they are bound to maintain the *status quo*, which they have regarded as being, in general terms, that the Jewish community have a right of access to the pavement for the purposes of their devotions, but may bring to the Wall only those appurtenances of worship which were permitted under the Turkish régime. Whenever the Moslem authorities have preferred complaints that innovations have been made in the established practice, and the Palestine Government on enquiry have satisfied themselves that the complaints were well-founded, they have felt it their duty to insist that the departures from practice which gave rise to the complaints should be discontinued.

An incident which occurred in September, 1925, when the authorities in Palestine had to remove seats and benches brought to the Wall, formed one of the subjects of a memorandum addressed by the President of the Zionist Organisation through His Majesty's Government to the League of Nations in May, 1926. The conclusion of both the Permanent Mandates Commission and the Council of the League was that a solution of the difficulties could only be found by agreement, thus endorsing the comment of His Majesty's Government on the memorandum, which was that the dispute could not be settled except by common consent. The Palestine Government, though prepared, if approached by both parties, to act as intermediaries, felt that the matter was one which could best be settled by consent between the communities concerned. Neither party, in fact, approached the Palestine Government and that Government is not aware of any negotiations having been initiated between the parties.

From the official *communiqué* issued by the Palestine Government it will be seen—and, so far as His Majesty's Government are aware, the fact is not contested—that on the Jewish Day of Atonement in September last innovations were made in the existing practice. Complaints about these innovations were made to an officer of the Palestine Government by the Mutawali of the Waqf in which the pavement is vested, and, when on investigation he found that those complaints were substantiated, he was confronted with a choice between ignoring the Mandatory obligation of his Government to preserve the *status quo* and the removal of an appurtenance of Jewish worship. Having decided that the Mandatory obligation could not be disregarded, he obtained from the Jewish official present at the Wall an undertaking that the screen which had been introduced in contravention of established practice would be removed before the service on the Day of Atonement. Unfortunately, this undertaking was not fulfilled; and accordingly there was no alternative, bearing in mind the obligation to preserve the *status quo*, to the removal of the screen when, on the following morning, worshippers present at the Wall themselves declined to remove it. Though some of the congregation endeavoured to prevent it, the removal was in fact effected without casualties of any but a light nature. The Police who undertook this duty did not include any Jews; at one time it was the practice to post a Jewish police inspector near the Wailing Wall on Jewish Holy Days but, at the urgent request of the Chief Rabbinate, all Jewish police officers had been excused duty on the Day of Atonement. In future, steps will be taken to ensure that a Jewish officer is present at the Wall on all such occasions.

It has been urged that the Palestine Government should have exercised greater judgment and, in particular, should have consulted representative Jewish authorities before action was taken. His Majesty's Government feel that the delicacy of the question of procedure at the Wall and the need for extreme discretion with regard to anything that might be regarded by watchful neighbours as a breach of the *status quo* should have been obvious to the responsible Jewish authorities. Those authorities are fully aware that, in the absence of any mutual agreement between themselves and the Moslem authorities regulating the conduct of services at the Wall, it is open to the Moslem authorities to take exception to any innovations of practice, and it is the duty of the Pales-



fine Government to ensure that there is no infraction of the *status quo*. If the innovations introduced on the Jewish Day of Atonement were made with the assent of the responsible Jewish authorities, that assent must be assumed to have been given in the full knowledge that, since the permission of the Government and of the Moslem owners of the pavement had not been obtained, the departure from the *status quo* would have to be stopped by Government if complaint were made. The Jewish authorities should have been the more alive to the possibility that the Moslem authorities would complain against any departure from the *status quo* on the Jewish Day of Atonement, since such a complaint was, in fact, made on the same day in 1925, and after the police had intervened to restore the *status quo*, it had been made clear to those concerned that the Palestine Government would regard it as their duty to take similar action in the event of any recurrence.

If, on the other hand, the responsible Jewish authorities were not aware of the innovations introduced on the Jewish Day of Atonement, they cannot reasonably expect the Mandatory Administration to countenance the unauthorised act of a subordinate. In any case, the responsible officer of the Palestine Government was faced with a position calling for an immediate decision and the principles on which he acted cannot, in the view of His Majesty's Government, be called in question. In the light of subsequent events, it may be thought unfortunate that the Deputy District Commissioner relied on the undertaking given by the Jewish official present at the Wall that the screen would be removed; but he had no reason to suppose that that undertaking would not in fact be carried out.

It has been represented that the removal of the screen should have been postponed until the conclusion of the services and the Fast of the Day of Atonement. It must be pointed out in reply that it is the practice to take immediate action where it is established that the *status quo* has been infringed. In the Church of the Holy Sepulchre and other Holy Places, even in the most sacred services and upon the most holy days, infraction of the *status quo* has from time immemorial been dealt with immediately and on the spot owing to the risk of creating a precedent which would transform an infraction into an integral portion of the *status quo*.

The request has been preferred to His Majesty's Government that they should use their good offices "to promote an arrangement eliminating the present obstacles to the free exercise of worship" at the Wailing Wall. His Majesty's Government regard it as their duty, and it is their intention, to maintain the established Jewish right of access to the pavement in front of the Wall for the purposes of their devotions and also their right to bring to the Wall those appurtenances that they were allowed to take to the Wall under the Turkish régime. It would be inconsistent with their duty under the Mandate were they to endeavour to compel the Moslem owners of the pavement to accord any further privileges or rights to the Jewish community. The possibility that such privileges or rights might be acquired by the Jews by mutual arrangement with the Moslem authorities has been lessened by the fact that public opinion in Palestine has definitely removed the matter from the purely religious orbit and has made of it a political and racial question. Even if the dispute had not assumed this complexion, it would have been difficult to find a solution satisfactory to all parties concerned. In the present state of feeling, the difficulty has been greatly enhanced. Nevertheless, in the hope that more sober counsels will eventually prevail the Palestine Government have suggested both to the Palestine Zionist Executive and to the Supreme Moslem Council that it would be a convenience to all the parties concerned if a protocol could be mutually agreed upon between the Moslem and Jewish authorities regulating the conduct of the services at the Wall without prejudice to the legal rights of the Moslem owners and in such a way as to satisfy normal liturgical requirements and decencies in matters of public worship. The Government have also instructed a senior officer to sound both parties in a tentative manner, in order to ascertain if some such arrangement can be achieved. If satisfactory assurances are received on this point, the Palestine Government will be most ready and anxious to use their good offices to facilitate such an arrangement. His Majesty's Government, for their part, would cordially welcome any arrangement which, while enabling them to fulfil their Mandatory obligation to preserve all existing rights in connection with the Wailing Wall, would provide a solution of the question satisfactory to both parties concerned, and prevent the recurrence of such unfortunate incidents as occurred in September last.

COLONIAL OFFICE.

19th November, 1928.

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