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"The Jewish National Fund: Land Purchase Methods and Priorities, 1924 - 1939"

by Kenneth W. Stein

In August 1937 at the League of Nations Permanent Mandates Commission meeting, Commission members debated how and whether to apply the British Mandate in Palestine. The League Commissioners reckoned that the original and primary purpose of the Mandate, as expressed in its Preamble, was the establishment of a Jewish national home, without prejudice to the civil and religious rights of the non-Jewish communities in Palestine.¹ This was the dual obligation as presented in the Balfour Declaration and in successive British policy statements on Palestine. But by 1937 the dual obligation was considered unworkable and unequal. Britain had to decide whether to give the dual obligation equal weight or disengage herself from the Mandate, and perhaps finally from Palestine completely. The Royal (Peel) Commission, which undertook its investigations in an effort to understand the causes for the then high level of civilian unrest and disturbance, declared that the Mandate was unworkable. The Peel Commissioners further suggested the establishment of an Arab and Jewish state and a British zone in Palestine.

Accepting such a suggestion meant HMG's (His Majesty's Government) acknowledgment that its policy in Palestine failed. But rather than withdrawing from Palestine, the British rejected the notion of partition. They remained, and gave a different meaning to the dual obligation policy. In May 1939, the British issued another policy statement on Palestine, this time imposing restrictions upon the development of the Jewish national home. Instead of using their best endeavors to facilitate the achievement of that objective, the British sought to curtail Jewish immigration and land purchase. In restructuring the dual obligation, the British imposed greater restrictions on the Jewish community and applied paternalistic rule on the Arab community by enforcing administrative regulations.

In fact HMG admitted that duality had failed. The dual obligation naively assumed that (1) there was parity between the respective communities which would foster mutual and eventual accommodation; (2) the goals of both communities could be manipulated and altered; and (3) the behavior of both communities would be generally civil and conciliatory.² By 1939, the British realized that such objectives, however originally noble their intent, could not be achieved. Jews in Palestine were buying land for a state while the majority Arab population was disorganized politically, severely stratified socially and suffering economically.

The purpose of this article is to describe how Jews acquired land for a state, and particularly the role played by the Jewish National Fund (JNF) in creating a national territory. Without the existence of a substantial territorial base, neither the League of Nations nor the Peel Commissioners would have considered the option of a Jewish or Arab state in 1937. A

geographic nucleus for a Jewish state had emerged by 1937 because relatively few Jews were willing to commit time, energy, and money to the process of Jewish nation-building. After the middle of the 1930s the JNF played a significant organizational role in consolidating the individual efforts of earlier immigrants. Examining the process, methods and priorities of land acquisition allows one to understand how and why a Jewish state came into existence in May 1948.

By May 1948 Jews acquired approximately two million of Palestine's 26 million dunams. In terms of Palestine's total land area under the Mandate, this was a small percentage. But these two million purchased dunams were among the most cultivable. They were neither in the hill regions of the West Bank/Judea-Samaria regions nor south of Beersheba. Jewish land acquisition focused on the valley and coastal regions of Palestine from 1920 through 1936. Before and after these years land was purchased also in the Galilee and later in the southern portions of Palestine, between Beersheba and Gaza. At the end of the Mandate Egypt controlled the Gaza Strip (320,000 dunams) and the Hashemite Kingdom of Jordan annexed the West Bank/Judea-Samaria (6 million dunams).

Until 1939, more than two-thirds of the land acquired by Jews was purchased by private individuals and companies, not institutions of the Jewish Agency or yishuv. This was accomplished by private purchases, land transfers not recorded in the sub-district land registry offices, from official registered transfers by Arab sellers and concessionary agreements with the British. The data in Table 1 show that the JNF was only a minority purchaser of all Jewish-acquired land by the time of the Peel Report's partition recommendation. It is noteworthy that the suggestion to establish a Jewish state was made because land was purchased by individual investors, entrepreneurs, settlers, pioneers and private companies, and not by the JNF.

The JNF lagged behind in importance in the 1920s for several reasons. First, the JNF was only established in 1901 as the land settlement organ of the World Zionist Organisation. Other private investors and philanthropists were already deeply engaged in land purchase and settlement by the turn of the century.

TABLE 1

JEWISH LAND ACQUISITION BY PERIOD AND JEWISH NATIONAL FUND
PERCENTAGE OF TOTAL

At End of	Total Land Accumulated To Date From All Sources	Total Land Accumulated JNF To Date By JNF	Percentage of Total Held
1914	418,000	16,380	3.9
1922	586,147	72,360	12.3
1927	882,502	196,660	22.2
1932	1,025,079	296,910	28.9
1937	1,244,604	369,860	29.7

1940	1,359,857	505,544	37.1
May 15, 1948	2,000,000 (estimated)	928,240	46.4

Source : Statistics for this table were culled from P. Gurevich and A. Gertz, *Jewish Agricultural Settlement in Palestine*, Jerusalem, 1936, p. 36, and Minutes of the JNF Directorate Meetings from 1924 to 1948.

In its early years in Palestine, the JNF did not have its own land purchasing personnel. In the 1920s it was obliged to work for the most part in tandem with both the Palestine Land Development Company (PLDC) as its purchasing agent and the Keren Hayesod as its financial associate. Sometimes the Palestine Land Development Company overbought, forcing the JNF to assent to acquisitions it considered neither appropriate nor at the best potential negotiable price.³ Second, the JNF's main office was not initially located in Palestine but was transferred there only in the early 1920s. Hence, distance from the mainstream of Palestine activities hindered its effectiveness and involvement in land acquisition. Third, there was often disagreement among JNF directors in the 1920s about the organization's goals. Division existed about acquisition priorities: rural vs. urban purchases. Similarly, there was disagreement about whether the JNF should only spend its sparse resources on the acquisition of land, or also allocate funds for land amelioration (drainage of swamps, road construction, improvement of health conditions, and provision of loans to immigrant settlers). Fourth, within the framework of Jewish organizations in Palestine after World War I the JNF possessed neither independent status nor prerogative. Its financial base was therefore limited. In relation to other Jewish institutions engaged in the redemption of the land of Palestine, the attitude persisted in the early 1920s that the JNF was merely a stepchild to the Palestine Zionist Executive and the Keren Hayesod, the financial arm of the World Zionist Organization.⁴ In matters of fund raising, JNF emissaries to eastern and western Europe and to America were rebuffed by members of local Zionist Organizations. Fifth, in the intra-institutional competition among Jewish organizations for scarce resources the JNF was not given any special priority. In the 1920s the JNF never had enough money to purchase all that it wanted, or to pursue all the offers tendered to it by potential sellers.⁵ During most of the decade the majority of JNF assets were tied up in loans, mortgages, and other previously assigned commitments.

Simultaneous with the evolving institutional jealousy, there were stylistic and operational differences between two schools of Zionist activity. The clash occurred between Menachem Ussishkin, one of a dozen JNF directors in 1921, and the Palestine Zionist Executive chairman, Colonel Frederick Kisch. Ussishkin and Kisch epitomized the distance that existed between an East European and a West European Zionist. Ussishkin lacked diplomatic polish and was rarely prone to political compromise when Jewish national redemption was the topic. Ussishkin believed that any, infringement of Jewish prerogatives in Palestine was improper and ideologically inconsistent with the establishment of the national home. Ussishkin deeply disagreed, for example, with Louis Brandeis who in 1920 opposed the emphasis on the national aspects of Zionism.⁶ Kisch, on the other hand, was willing to employ pragmatic accommodation in policy making and implementation, and in dealing with the British. Since Ussishkin persistently sought greater autonomy for the JNF he repeatedly found himself in disagreement with Kisch at the Palestine Zionist Executive and its successor organization, the Jewish Agency.

But the disagreement between Ussishkin and Kisch was not just over form and manner; it also encompassed substance. The chairman of the Palestine Zionist Executive enjoyed veto power over proposed purchases. He sometimes exercised this prerogative personally or through ideological supporters on the JNF Directorate.⁷ While Kisch preferred to acquire land in areas adjacent to existing Jewish settlements, Ussishkin was particularly attached to buying land for workers' settlements. These were not necessarily competing priorities. Yet, Ussishkin was motivated primarily by the ideology of returning the Jew to the land while Kisch was less motivated by socialism. Some reconciliation between these two schools of thought came in late 1929, in part due to the physical threat posed by the severe communal disturbances in August of that year, and in part due to the mediation efforts of Arthur Ruppin, a Jewish land and colonization expert.

Both Kisch and Ussishkin were unquestionably committed to the physical development of the Jewish national home. Yet in the 1920s when Jewish organizations were just emerging, and relationships with the British administrators only developing, Kisch's less strident and more measured tones established some confidence and linkages between the Palestine Zionist Executive Jewish Agency and the British. Later, these personal and bureaucratic connections benefited the JNF as well as other Jewish organizations engaged in state building. Jewish settlement in particular harvested the fruits of Kisch's style when political threats to the national home were made by British officials. Ussishkin's drive to generate JNF autonomy from early 1924⁸ also brought benefits to the JNF. For example, the JNF developed its own archive of materials pertaining to land cultivability and ownership, established a systematic gathering of data, eventually employed its own Arabic-speaking land purchase personnel, and assigned these individuals to different parts of Palestine. Thus, the Jewish Agency possessed another source of information about land purchase matters in addition to materials collected by the Jewish Agency's Agricultural Settlement Department, Baron Rothschild's Palestine (Jewish) Colonization Association, and the Palestine Land Development Company. Together these organizations in the late 1920s and early 1930s were able to combat and defeat publicly the adverse judgments on Jewish settlement in the Shaw report, the Hope-Simpson Report, the Passfield White Paper, and the Landless Arab Inquiry.

Only late in the 1920s and in the early 1930s did the JNF demonstrate its importance and become increasingly central to the creation of the national home, as political instability increased in Palestine. The JNF grew as an institution in the 1920s, while not threatened politically or physically by British policy or by Palestinian Arab animosity. Then, it was shielded by the Palestine Zionist Executive-Jewish Agency, though this was certainly not the preference of Menachem Ussishkin. The JNF slowly developed its own infrastructure, mechanisms of operation and procedures while its financial condition was poor. With the denouement of the Wadi Hawarith Affair in 1929, the JNF showed a measure of political sophistication by compromising with the British in an effort to resettle the Bedouin of Wadi Hawarith. Moreover, its public image was enhanced within the Jewish community by the acquisition, through the Palestine Land Development Company, of the Huleh area in December 1934. Internally, the JNF's stature rose in the early 1930s as its legal experts, purchasing agents, and accumulated expertise were judiciously used by the JA to disprove publicly that Jewish land purchase led to the creation of a landless Arab population. The JNF's financial condition also improved in the early 1930s, and an agreement between the Keren Hayesod and JNF in 1935 to coordinate their

activities in various countries allowed the JNF to plan and implement a national land purchase strategy.

In 1937 when the notion of partition was suggested, the JNF was capable of shifting its organizational apparatus into high gear. The debilitating personality dispute between Kisch and Ussishkin was gone as Moshe Shertok and David Ben-Gurion took the reins of the Jewish Agency in the middle 1930s. In the 1920s, JNF Directorate discussions focused on the more day to day issues, such as the composition of this or that delegation to America, Europe or the Zionist Congresses, the JNF's relationship to the Palestine Zionist Executive-Jewish Agency, and Keren Hayesod, its constitution, or the shifting of its main office from The Hague to Jerusalem. Rarely did the Directorate mention the Arab community or British policies in its official deliberations. In contrast, the issues in the mid-1930s were colored by the unmistakable Zionist conviction that a Jewish state would ultimately be established. In earlier periods, there was no less a commitment to the goal of a Jewish national home, but after 1936 there was greater overt self-confidence because the British suggested partition and Arabs in Palestine continued to sell their land.

Another important reason for the increased centrality of the JNF after 1936 was the reduction of competition from private purchasers and other, smaller, public purchasing organizations. For private buyers, the disturbances which broke out in 1936 made negotiations for land financially hazardous and physically perilous. The decline in public security made the preliminary contract-negotiation process fraught with risk. Failure to fulfil contracts and the loss of advance payments increased. Unquestionably, the impact of the 1936-9 Arab Revolt was as important for the JNF in particular as the August 1929 disturbances were for Jewish settlement in general.⁹ Just as the 1929 disturbances forced new British policy considerations, and therefore a more collective, organized and nationalistic Jewish response, the 1936-9 violence catapulted the JNF to the forefront as the leading Jewish settlement organization in Palestine.

The JNF's delayed emergence as a critical land settlement institution in large measure influenced its land acquisition priorities from 1924 to 1939. Ussishkin's strategy of pursuing the Sursock lands in the Jezreel Valley in the 1920s in spite of the disapproval of other JNF directors tied up JNF capital for much of the decade. The absence of separate purchasing agents meant dependence upon the experience and judgment of the Palestine Land Development Company's land acquisition specialists -- Dr. Thon, Yehoshua Hankin, Meir Vilkansky, A. Ashbel and others. Suggestions to purchase lands were often influenced by a director living abroad who was perhaps philosophically committed to the purchase of urban rather than rural land. Though land purchase methods changed slightly to conform to the political environment, the process involved in a land transfer remained constant.

Before an area of land was considered for JNF purchase, the Agricultural Settlement Department of the Palestine Zionist Executive Jewish Agency conducted geographic, topographic and hydrographic studies. In addition, a series of recommendations was usually made about a land's suitability for growing certain kinds of crops. Estimates were made about the cost of an amelioration program and the time necessary to prepare the land for actual settlement. Time was of the essence, but attention had to be paid to the availability of drinking water, road building needs, access to main highways or the railroad, possible swamp drainage, and other

costs associated with the establishment of a moshav or a kibbutz if rural areas were under consideration.¹⁰ Sometimes, the land to be acquired was considered so desirable that the plans for its future use were drawn up while the contracts were in various stages of negotiation. A simple land purchase took anywhere from one to six months or more to complete. But evaluations, negotiations, purchase and transfer sometimes took years, even decades to complete as in the cases of the Sursock, Wadi Hawarith, and Huleh area purchases.

Not only could land purchase negotiations last for years, but the payments made for a particular area of land also stretched over a period of time. In most cases, payment to a seller was fixed in installments. Initial sums were usually paid to lubricate the selling motive. Local village notables, tenants in occupation, mukhtars, intermediaries, brokers, short-term squatters, and land registry officials often received persuasive sums. The owner or owners also received a sum of money prior to signing the contract. This could mean paying several similar or different sums to members of one family who owned portions of a large land area. A subsequent payment was sometimes made when all the title deeds available were collected and condensed into one large parcel. Another payment was made when a portion of the land was legally transferred or prior to the land being considered free of tenants and agricultural occupants. Still another sum was paid when possession was taken (this to avoid squatting by transient fellaheen), and then periodically as stipulated in a contract.¹¹ The duration of the financial connection between the JNF and the Arab seller(s) gave the JNF leverage over the seller in effecting certain obligations such as registration, tax payments, compensation to agricultural occupants, and assurances that the land would be delivered free of fellaheen occupants.

Numerous factors were considered in deciding which lands to purchase. These included location, cultivability, availability of water on rural land, price per dunam, number of owners associated with the land in question, and proximity to other Arab or Jewish demographic concentrations. The importance played by location changed in nature from the 1920s to the 1930s. In the early 1920s prime attention was given to prospective property purchased from a few owners who owned large parcels. With all factors being equal, location was not the critical determinant of which land should be acquired. The absence of nearby Jewish settlements did not preclude JNF acquisition of land in the 1920s. But only after the 1929 disturbances, in which Jewish life and property were destroyed, did the JNF and other Jewish land-purchasing institutions and individuals increasingly acquire lands closer to existing Jewish population concentrations. Creating strings of Jewish settlements contiguous to one another now became more essential in the JNF decision to purchase a particular area of land. Nevertheless, some land was still purchased that was distant from existing Jewish enclaves.

An indication of closer Jewish Agency and JNF cooperation in the early 1930s was the explicit decision to establish blocks of uninterrupted Jewish ownership. This manifested itself in two administrative decisions. First the Jewish Agency and other public and private land-purchasing organizations took care that resident Arab tenants who received monetary compensation from either the purchaser or seller, to vacate the land they once worked, would not be physically resettled between existing Jewish settlements.¹² Second, when the issue of Arab landlessness caused by the land sale process was raised in the late 1920s and early 1930s, the Jewish Agency and other land-purchasing organizations took the position -- and effectively influenced the British Government in London -- against resettling or transferring Arab peasants

from the hill regions of Palestine to the low-lying plain and valley regions, the locus of Jewish land acquisition.¹³ Nahum Sokolow, the newly elected president of World Zionist Organization, enthusiastically supported a policy in 1931 preventing the resettlement of landless Arabs in Jewish districts; while 'Awni Abd al-Hadi, an Arab lawyer and later leader of the Istiqlal Party in Palestine, protested against making the coastal plain into a Jewish preserve.¹⁴

Quite noticeably, the factor of location and the degree of disturbance an acquisition could evoke or the amount of security it might require became important to the JNF's decision-making process as the Mandate progressed. Political ramifications and strategic considerations became paramount. Particularly after the outbreak of the 1936 disturbances and the Peel Report, the JNF Directorate based its land acquisition decisions almost completely upon the strategic needs of the Jewish state. A comparison of the JNF Directorate meetings of the middle 1920s with those of the middle or late 1930s reveals a definite and unmistakable preoccupation with geopolitical considerations in the later period.

The internal debate at JNF meetings in the 1937-9 period rarely suffered from unanimity. Deliberations were heated, lengthy, and sometimes rancorous. Nevertheless, a consensus emerged on priorities. Regret was always expressed about the meager funds available, a perennial problem for the JNF. Decisions about acquisition aimed at achieving the primary goal of consolidating heavily populated Jewish areas in the coastal and valley regions. In addition, a definite thrust into the hill regions of northern Palestine was considered and effected.¹⁵ Areas in the Negev were not high priority zones for JNF purchases in the middle or late 1930s. In the coastal and valley regions, rural land was acquired before urban land, because the former was available at a lower price.¹⁶ Even though the Upper Galilee was outside of the Peel Report's proposed boundaries for the Jewish state, the JNF reasoned that additional holdings on the northern frontier would increase security for existing settlements. Ben-Gurion's suggestions in 1937 that land be acquired on the Tel Aviv-Jerusalem road and in the Haifa region were acted upon because of geopolitical considerations to achieve Jewish territorial depth, and to gain control of specific areas for the future Jewish state.¹⁷

During the Mandate, the methods employed to acquire land were not as varied as the geographic priorities of Jewish land purchase. Precedents in procedure were established before World War I. Then, land purchases were accomplished through the acquisition of relatively large blocks from single owners who owned land in northern Palestine. The introduction of British administrative scrutiny regularized the land transfer process. From 1920, it was less susceptible to the traditional wide abuse. Nevertheless, collusive agreements, monetary advances, and careful circumspection continued to characterize land transfers. The newly established British administration influenced land purchase methods in two ways. First, it standardized transfer procedures and provided means to enforce contracts and agreements. Second, British involvement meant a steady increase in regulations and laws concerning land transfers. Ordinances and proposed laws pertained to size, geographic area and amount of land that could be transferred. Slowly, the British increased the scope of protection for tenant cultivators. The regulative nature of British intervention in the land transfer process forced organizations like the JNF and the Arab sellers to find circumventions. As the environment in Palestine became more politically charged and the Jewish community stronger, the British increased their support and protection for the Arabs in Palestine. This, in turn, forced the JNF and other Jewish organizations

to employ more sophisticated and complex methods of buying and settling land to fulfil the objective of establishing the Jewish national home.

Certainly, the most influential factor affecting land purchase priorities for the JNF in Palestine was the Arab community's stratified social structure. Due to a weak Ottoman central government and the evolution of local clan and family power in Palestine, large areas of land became the possession of relatively few individual landowners. Vast land-holdings, in amounts exceeding five thousand dunams or more, were accumulated in large part owing to fellaheen indebtedness. This was mostly caused by poor crop yields and unproductive methods of land use. Merchants, rural shaykhs and notables, and urban professionals gradually amassed areas of land as financial investments. In many cases, individual fellaheen who once worked their village lands as independent landowners became tenants of large landowners in the same land area. Many of these large landowners also dominated local politics in the sub-districts of Palestine and later formed a nucleus in the Palestinian Arab nationalist movement. For a variety of reasons, the JNF's preference was to purchase large areas of land from as few Arab landowners as possible.

The primary land purchase consideration was acquisition of the best and largest possible land area available from a cultivability standpoint with the fewest number of owners with whom to negotiate.¹⁸ Acquiring land with the fewest number of fellaheen occupants was also a priority since this meant reducing the number of contacts between the JNF and Arab sellers. Due to the indebtedness of many fellaheen, a landowner often had a financial lien on a tenant, grazer, manure carrier, or other per them laborer. It was more prudent from the Jewish purchaser's standpoint to have the Arab landowner or his agent deal directly with these agricultural workers. Whether by the Arab landowner or Jewish purchaser, in this case the JNF, funds were made available for compensation to leave a land area prior to the legal transfer. Where possible the JNF agents and their Palestine Land Development Company counterparts preferred to have the Arab landowner or agent deal directly with the occupying Arab fellaheen. Responsibility for the displacement of these fellaheen was therefore at least shared with the Arab seller. Had the JNF been forced to purchase small parcels of land from numerous owners with vast numbers of occupying fellaheen in the 1920s, the land issue as a political cause would have had the same prominence that the issue of Jewish immigration had for Palestinian Arabs opposing the Jewish national home. Only in the early 1930s when smaller parcels were acquired from a greater number of owners did the land question gain as much public and political attention as the immigration issue had in previous years.

In the early 1920s when large areas of land only partially occupied by fellaheen were available, the JNF preference was to acquire them. The purchase of the Sursock (1921-5), Wadi Hawarith (1929) and Huleh areas (1934) epitomized the large purchase. But, in the late 1920s and in the 1930s, more and more purchases were made from smaller parcel holders, musha' village holders, and hence resident Palestinians. It can be shown that between 1932 and 1948 no less than 65 percent of all land purchased legally by Jews in Palestine came from Palestinian Arabs and not from so-called absentee landlords living in Beirut, Cairo, Damascus or Alexandria.¹⁹ Rarely did the presence of Arab tenants occupying a land area prevent or deflect the JNF's intent to purchase or settle it.²⁰

There were other benefits for the JNF in dealing with few owners and particularly those with large holdings. Land was the means to economic, social and political power in Palestine. The JNF knew that many of those engaged in land sales were also involved in local, regional or country-wide politics. Though aware of this relationship, the JNF chose intentionally to protect the anonymity of the Arab seller for a variety of reasons. Inevitably, a land seller still retained additional land that might be purchased at some future date. A previous seller might also modify his public antagonism to Zionism if his identity were protected. Equally important, there was the professionalism of the Jewish land purchasing agent. Mutual trust and confidentiality were essential to the land acquisition process. The professional pride of the Jewish purchasing agent translated itself into circumspection and respect for the seller's anonymity. Since there were only several score of agents who understood the various methods and procedures involved in land transfers, privacy was maintained. There were few leaks. Moreover, the discussions at JNF or Jewish Agency meetings about a particular transfer or an Arab's involvement in transfers were not disclosed publicly. The opportunity did present itself frequently for the Jewish Agency, JNF and other land purchasing organizations or their agents to divulge the names of Arab sellers, brokers, or intermediaries. Instead, intentional silence and circumspection prevailed. In fact in 1929, when the Jewish Agency had a complete list of Palestinian and non-Palestinian Arabs who had sold land to the JNF and other Jewish purchasers, the JA chose to conceal this confidential list from the Shaw Commissioners and Sir John Hope-Simpson who investigated the question of land availability in Palestine.²¹

In addition to the Arab social structure, other factors influenced the ability of the JNF to acquire land. The cultivable land areas of Palestine were not completely populated by fellaheen. Those portions that were cultivable were not exploited fully by the extensive and non-mechanized methods of farming used in the Arab sector. Many Palestinian fellaheen, though able to survive at the margin of subsistence for years were able to produce only meager crop yields. When successive years of agricultural setback such as those from 1911 to 1920 and from 1930 to 1935 battered the Palestinian fellaheen, the burden of retaining 'unproductive' land was weighed against the availability of unskilled jobs in the per them labor market in many urban areas. Coincidentally, the influx of Jewish capital into Palestine acted as a magnet pulling economically weak Arab fellaheen away from lands they worked. This in turn made it easier for the JNF to purchase land relatively free of fellaheen occupants.

A third factor assisting the JNF land purchase process was the administrative chaos of recorded land rights in Palestine. In the Ottoman period, boundary and size specifications, if provided at all in land records, were rarely accurate. In addition, the physical devastation in Palestine during World War I brought the destruction of tax, agricultural, bank and land records. The British process of reconstructing and ordering land rights enabled Jewish purchasers to have legal confirmation given to purchases made during the Ottoman period but never officially registered. The British passage of the 1926 Correction of Registers Ordinance gave legal recognition to the unofficial land books which Jewish colonies used in keeping track of land previously acquired via unregistered transfers.

Practically, Jewish purchasers and the JNF in particular utilized Ottoman abuses of under-registration and non-registration during the Mandate to enhance the size of their acquisitions and decrease taxes due on their new purchases. For example, the JNF's purchase of

30,000 dunams at Emek Hephher/Wadi Hawarith in April 1929 was registered in the Ottoman land registry as 5,000 dunams.²² At the public auction where the JNF purchased these lands, Yehoshua Hankin, representing the JNF, paid just over one pound per dunam. But privately, Hankin agreed with the Tayan family sellers to pay a previously agreed upon sum of four pounds per dunam.²³ In this manner, the JNF paid a lower transfer tax to the British, but settled quietly with the Tayans for a greater sum. The accepted Ottoman administrative abuse of inaccurate boundary measurements also resulted in expenditures for the JNF. A logical fear existed among some Arab neighbors adjacent to land destined for acquisition by the JNF that their own under- or non-registered land would be subsequently surveyed. This eventuality forced JNF purchasing agents to pay these neighbors a fee so that they would agree or give witness to the accurate and larger boundary measurements of the JNF land at the time of transfer.

Further, the JNF had a distinct advantage over both the British who administered the Mandate and the majority Arab population in acquiring and utilizing information. JNF lawyers and land purchasing agents gradually accumulated legal expertise, linguistic fluency in Arabic, and vast amounts of data which the British did not have. The JNF with the assistance of other Jewish Agency organizations understood the inner social dynamics of the Palestinian Arab community. The JNF With its competent legal staff and archives actually became a crutch for British administrators in the Palestine Land and Land Registry Departments. Thus, when it came to combating the land transfer prohibitions suggested by High Commissioner Chancellor or clarifying the definition of a landless Arab in 1930, the JNF and Jewish Agency not only had their opinions heard but often their precise words adopted. This did not always accrue to the benefit of Jewish land purchase; but in striking contrast, the Arab community did not enjoy a similar consultative prerogative nor did it have its opinions incorporated into ordinances and regulations.

Finally, the most obvious factor contributing to JNF land purchase was the constant stream of Arab offers to sell. Arab willingness to sell their patrimony gave vital fuel to the Zionist leadership who were already skeptical of the sincerity of emerging Palestinian Arab nationalism. For most Arabs, their sagging economic condition forced them to sell. Yehoshua Hankin told Hope-Simpson at the JNF office in June 1930 that 90 percent of the sellers were immersed in debt and were seeking relief by selling their lands.²⁴ The economic situation of the majority rural Arab population had not improved since the end of World War I, and their economic condition in the early 1930s worsened. Other factors influenced many Arabs in Palestine to part with their lands. The projected land transfer prohibitions in autumn 1930 as initially recommended by Chancellor flooded the JNF with more offers than it could accommodate.²⁵ The disturbances and the impact of the Peel Report's recommendations in Palestine from 1936 to 1939 created a trying situation for many landowners since their lands were not regularly worked while others were short of cash, owing to the prolonged nature of the strike.²⁶ Still other Arabs wanted to sell land that was geographically situated in the proposed Jewish state. In April 1938, Mr. Weitz of the JNF noted that so vast were the number of Arab offers to sell to the JNF that no comparable period had existed since World War I. ²⁷

The quantity and variety of offers enabled the JNF to fulfill without difficulty geo-strategic settlement objectives especially in northern Palestine. The appearance of the 1939 White Paper prompted the JNF to tidy up current contracts and consolidate existing holdings.

This was a particularly operative policy for the JNF after the imposition of the land transfer regulations in February 1940.²⁸ This same policy of exercising restraint and withholding commitments to new purchase areas occurred in 1930-1 between the period when Passfield's White Paper was contemplated and issued, and when it was neutralized by the MacDonald letter. It is significant to note that land purchased prior to the application of the land transfer regulations in 1940 provided the JNF with opportunities to expand these holdings after the regulations came into effect.²⁹

Five important considerations were central to most JNF purchase contracts: money, time, circumspection, utilization of the Arab social hierarchy and of the land registration system in effecting a transfer. Certainly, the most common mechanism of urging, committing, and binding a future prospect to sell his lands was the attraction of cash. Sometimes in settling with adjacent neighbors -- shaykhs, mukhtars, tenants, squatters and grazers -- the JNF provided material such as oil, seeds, fodder, draft animals or new plows. But the commodity of exchange most often used was money. The issuance of loans, grants or subventions were the most frequently used methods for establishing one's debt to the JNF.

The debt creation process was often collusively preplanned between the Arab seller and Jewish buyer. The scenario might evolve as follows: the Arab seller borrowed a sum of money from the JNF and failed to repay the loan when due by pre-arrangement. The land courts in Palestine were 'forced' to have the seller put his land up at public auction in order to satisfy the debt. Then, the JNF bid on and purchased the land in question. In 'forcing' a sale through the courts, the Arab seller blamed the British for forcing him to sell his land to the Zionists. The seller in such an instance received the money from the court-ordered sale, paid the JNF what it was due, and then received an additional sum from the JNF for participating in such a ruse. By using such a method the JNF actually paid more for the land than was fixed at the public auction, but paid a tax on a lesser amount since the tax was based on the under-registered land size from the court-ordered sale. Since this was a court-ordered sale, no compensation was legally due to the occupying tenants until the early 1930s. Hence, the rights of Arab tenants were legally circumvented. But more often than not the JNF provided monetary compensation to tenants even when not legally bound to do so.³⁰

For the JNF time was of the essence in a transfer. Therefore, contracts invariably contained penalty or specific performance clauses. These bound a vendor to follow a particular schedule for compensating occupants, measuring the boundaries, legally transferring it at the land registry offices, and giving possession. Such pursuit and enforcement of a rigorous schedule reduced or eliminated the seller's opportunity to 'shop' his land or contract with another interested buyer.³¹ The clauses in many contracts often stipulated that the seller in failing to deliver his land by a given time or under certain conditions would have to pay a penalty of as much as ten times the land value.³²

In 1935 the British High Commissioner recognized that these means of binding the Arab seller were being employed. Rather than risking the politically unsavory reaction to a full land transfer prohibition, a British draft ordinance was proposed to neutralize the use of penalty clauses and irrevocable powers of attorney.³³ Like the Landless Arab Inquiry, the Protection of Cultivators Ordinance, the Land Disputes Possession Ordinance, this proposed bill, and later the

proposed small-owner protection legislation of early 1936, demonstrated British paternalism in dealing with the Palestinian Arab. Naturally, the JNF and Jewish Agency protested against the proposed draft damages ordinance since it would encourage land speculation and non-fulfillment of contractual obligations.³⁴ The proposed draft damages ordinance of 1935 was not enacted, in part due to JNF and Jewish Agency pressure upon the High Commissioner.

The size of the areas purchased influenced the method adopted for acquisition. In the 1920s the JNF did not have the funds to acquire lands from small landowners; moreover, the preference was to acquire large cultivable areas where a large number of Jewish settlements could be established quickly. But in the late 1920s and early 1930s smaller and smaller sized transactions dominated Jewish land acquisition in general. What did not appear in Jewish Agency statistics about the nature of previous owners was the active presence of land brokers and intermediaries who accumulated small parcels from Palestinian Arab peasants and in turn sold them in larger blocks to the JNF.³⁵ It was not uncommon for a JNF purchasing agent such as Yehoshua Hankin in the 1930s to enter into a contract with the villagers for the purchase of their lands and induce the villagers to appoint one of their own or another Arab as their agent. In this manner the JNF could deal with one representative rather than the vocal and often fractious village or tribe of 100 to 1,500 or more.³⁶ Usually, penalty clauses were present in contracts where intermediaries were involved. Sometimes very liberal cash payments in addition to the purchase price were made to a local shaykh or mukhtar. Villagers received compensation based upon criteria which included previous area cultivated, per pair of plowing oxen or of plowing camels, or estimated crop yield.³⁷

There were numerous reasons why Jewish land acquisition succeeded. These included: (a) knowledge of the Ottoman land classification and registration systems, (b) awareness of the internal dynamics of Arab society throughout Palestine, (c) knowledge of Arabic, (d) access to British draft legislation and memoranda, and confidential communications between the High Commissioner and the Colonial Office, and (e) accumulated knowledge about land tenure and land use from decades of experience before the inception of the Mandate.

The limitations on JNF purchases affected all Jewish land purchases until 1936-7. After that the JNF alone, with its renewed financial strength, did not have the incessant and oftentimes debilitating competition from other Jewish buyers that characterized the land purchase atmosphere in the early 1920s. Then, competition from other Jewish purchasers drove up prices artificially. But throughout the Mandate, land speculators adversely affected already strained JNF budgets and those of other purchasing organizations.

Factors constraining JNF land acquisition included: inadequate money to purchase all that was offered; organizational or institutional jealousy as alluded to above; inflated land prices; the repeated spectra of unwelcome political restraints in the 1929-31 period with the Shaw and Hope-Simpson Reports, the Passfield White Paper, and the Landless Arab Inquiry; and the need to expend sums of money to ameliorate land and compensate peasants, adjacent neighbors, unwanted squatters, and Arab intermediaries and brokers.

Paradoxically, these limitations produced some benefits for the JNF. Most important of all, both the 1929 Arab disturbances and the political danger posed by the British to the Jewish

national home concept from 1929 to 1931 generated a coordinated Jewish institutional reply. The Jewish Agency and JNF demonstrated their inexperience and naivety by freely sharing information about Jewish settlement with Hope-Simpson. But after Hope-Simpson's very negative report about Jewish settlement and his indictment of the JNF, care, restraint and pragmatism prevailed in future exchanges with British officials about land acquisition. The experience with Hope-Simpson engendered collaboration among the Jewish Agency, JNF, Palestine Land Development Company and Palestine (Jewish) Colonization Association. They joined forces in order to bury publicly the validity of Jewish responsibility for creating an Arab landless class. Even the periods of monetary scarcity gave the JNF time to pause, strengthen itself internally, consolidate gains, and refrain from over-commitment. In the 1930s when the British sought to protect the Arab tenant and seller through various laws and ordinances, the Jewish land purchasing and settlement coordination which began in 1929 and 1930 bore fruit, as legal means were found to circumvent the British intent to slow down Jewish demographic and geographic expansion. The successes of the early 1930s gave encouragement to those Jewish Agency and JNF members in the 1940s who resolutely circumvented the immigration and land transfer prohibitions provided in the May 1939 White Paper.

Though only becoming central to Jewish land acquisition in the 1930s, some 50 years after the May Laws in Russia, the JNF performed a critical acquisition function in that decade and subsequently. When the Land Transfer Regulations were imposed in February 1940, the JNF was not caught by surprise. In the 1940s the JNF purchased most of the land acquired by Jews in Palestine. By then the mechanisms for land transfer had been fully established, developed, and fine-tuned. Certainly the legal restraints imposed upon the JNF greatly complicated the acquisition of land, but unofficial and unregistered transfers continued. The cunning acumen, perseverance, and resourcefulness accumulated by the JNF in prior years allowed the Jewish Agency the 'luxury' of focusing on the political needs associated with the Jewish state's development. The geo-strategic nucleus was basically established by 1939. In the 1940s the struggle was against the British. For Zionists, the Jewish Agency, and the JNF the issue was not if, but rather when, a Jewish state would be established.

NOTES

1. League of Nations Permanent Mandates Commission minutes, thirty-second (extraordinary) session, twentieth meeting, 11 August 1937, p. 164.
2. The whole issue of duality and the dual obligation is the topic of a lengthy essay currently under preparation.
3. Remarks by Menachem Ussishkin, minutes of the JNF Directorate meeting, 26 February 1924, Central Zionist Archives (hereafter CZA), record group KKL5/file 1207.
4. The Keren Hayesod was established in July 1920. It was charged with financially promoting economic undertakings in setting up the Jewish national home.

5. See Arthur Ruppin, *Pirke Hayay (Chapters of My Life)*, Vol. 1 (Tel Aviv, 1968), p. 114; Memorandum by Dr. Granovsky of the Jewish National Fund, 7 July 1930, CZA, KKL5/box 536; CO 733/185/77272 Part II; and JNF Directorate meeting, 18 October 1939, p. 3.
6. Joseph Klausner, *Menachem Ussishkin*, (London, n.d.), p. 68.
7. See letter from PZE to Dr. Robert Weltsch, 13 June 1929; letter from Mr. Bawly to Colonel Kisch, 7 December 1928; letter from Kisch to Ussishkin, 24 October 1929, CZA, S25/1901.
8. 'Protokoll der Sitzung des Direktorium der Keren Keyemeth Le Yisrael', 29 January 1924, CZA, KKL5/1202.
9. 'Current Problems of the Jewish National Fund', an address by Joseph Weitz of the JNF in reply to questions of JNF delegates, October 1937, CZA, 525/10250; Report of the Executives of the Zionist Organization and of the Jewish Agency for Palestine, submitted to the Twenty-First Zionist Congress, August 1939, p. 187; Moshe Smilansky. *Prakim BeToldot HaYishuv (Chapters in the History of the Yishuv)*, Vol.6 (Tel Aviv, 1947), p. 71.
10. See letter of 27 April 1924 in CZA, KKL5/file 1202.
11. Remarks by Joseph Weitz, protocols of the JNF Directorate meeting, 29 June 1939, CZA, KKLIO.
12. Zvi Botkovsky to Colonel Msch, 3 March 1931, CZA, S25/9836.
13. Lewis Namier of the London JA Executive played an instrumental role in fashioning the outline for this population division. See Namier to Mrs. Dugdale, 11 January 1931, CZA, S25/7587.
14. London JA Executive to Palestine JA Executive, 4 December 1931, CZA, S2517596; *The New York Times*, 26 July 1931.
15. Before the outbreak of the 1936 disturbances the JNF owned only 103 dunams in the Galilee region, but by April 1940 it owned 54,783 dunams. Of the 44 kibbutzim and moshavim established by the JNF in the 1937-9 period, more than half were established in the Galilee. See *Jewish Telegraphic Agency Bulletin*, 30 May 1940, in Colonial Office (hereafter CO), record group 733, series 418, file 75072/9.
16. Remarks by David Ben-Gurion, protocols of the JNF Directorate meeting, 6 December 1937, CZA, KKLIO.
17. *Ibid.*
18. Letter from Colonel Kisch to the Zionist Executive, 16 December 1928, CZA, Z4/3450/111.

19. See Kenneth W. Stein, *The Land Question in Mandatory Palestine, 1917-1939* (Chapel Hill, NC, 1984).
20. S. Tolkovsky of the PLDC to Kisch, 22 January 1930, and Kisch to Zionist Office, London, 24 January 1930, CZA, S25/5789.
21. For a fuller discussion of Arab tenants' protection see Kenneth W. Stein, 'Legal Protection and Circumvention of Rights for Cultivators in Mandatory Palestine', in Joel S. Migdat (ed.), *Palestinian Society and Politics* (Princeton, NJ, 1980), pp.233-61, or the Hebrew version in *HaMizrah HeHadash*, Vol. 29, Nos. 1-4 (1980), pp. 66-88.
22. High Commissioner Chancellor to Lord Passfield, Secretary of State for the Colonies, 1 March 1930, C0733/19On7182. For additional examples see David Gurevich of the Jewish Agency's Department of Statistics to JNF Directorate, 12 May 1941, CZA, S25/6563.
23. See A. Ashbel, *Shishim Shnot Haksharat HaYishuv, (Sixty Years of the PLDC)* (Jerusalem, 1967), pp. 81-8.
24. Yehoshua Hankin interview with Sir John Hope-Simpson, 17 June 1930, CZA, KKL5/ box 536.
25. Minutes of the JNF Directorate meeting, 17 November 1930, CZA, S25/1946 and *The New York Times*, 4 January 1931.
26. Report of the Executive of the Zionist Organization and the Jewish Agency for Palestine submitted to the 20th Zionist Congress, August 1937, p. 238; see protocols of the JNF Directorate meeting, 25 April 1938, CZA, KKLIO.
27. Remarks by Joseph Weitz, protocols of the JNF Directorate meeting, 25 April 1938.
28. See minutes of the JNF Directorate meeting, 30 May 1940, CZA, KKLIO.
29. See minutes of the JNF Directorate meeting, 25 December 1940, CZA, KKLIO.
30. See material on Zerim village in the Israel State Archives, box 351 1/file I.
31. Hope-Simpson interview at PLDC, 17 June 1930, CZA, KKLS/box 536.
32. Palestine Executive Council minutes, 24 December 1934, C0814/30; High Commissioner Wauchope to Cunliffe-Lister, Secretary of State for the Colonies, 10 January 1935, C0733/276/75072.
33. High Commissioner Wauchope to Cunliffe-Lister, Secretary of State for the Colonies, 10 January 1935, 0733/272/75072.
34. Letter from Moshe Shertok to the Chief Secretary, 4 April 1935, C0733/272/75072/1.

35. See for example, D. Gurevich and A. Gertz, *Jewish Agricultural Settlement in Palestine* (Jerusalem, 1938), Table 27, 'Distribution of Land in Jewish Possession According to the Former Owners'. It is curious that this is one of the few tables in this otherwise consistently accurate digest of statistics that has the caveat 'Distribution of area for which particulars are available'. The table incorrectly states that only 9.4 per cent of all Jewish acquisition came from Arab peasants.

36. See S. Felman to President District Court, Chief Execution Officer, Nablus, 4 June 1935, CZA, S25/6546.

37. Letter from Officer Administering the Government to Colonial Office Official, 24 June 1937, C0733/327/75049. See Stein, 'Legal Protection and Circumvention of Rights for Cultivators in Mandatory Palestine', *op.cit.*, p.242.