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The Status of the United Nations kepolution on the kepstriation of the Arab kefugees

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The operative resolution is General Assembly Resolution No. 194 (III) of December 11, 1948, paragraph 11 of which states:

"11. The General Assembly <u>Resolves</u> that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."

2. Paragraph 2 of the same kesolution established the Palestine Conciliation Commission and the General Assembly also on December 11, 1948, adopted a proposal by a Committee of the Assembly that the Conciliation Commission should be composed of France, Turkey and the United States of America.

3. General Assembly resolution No.302 (IV) of December 8, 1949, recognizing, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III), that continued assistance to the refugees was necessary, established the United Nations kelief and Works Agency for Pelestine kefugees in the Near East. (U.N.K.W.A.)

4. Paragraph 4 of resolution No. 393 (V) of December 2, 1950 considered that, without prejudice to the provisions of paragraph 11 of General Assembly resolution 194 (III) the reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlemont, was essential in preparation for the time when international essistance would be no longer available and for the realization of conditions of peace and stability in the area.

5. General Assembly resolution No. 394 (V) of December 14 1950 directed the United Nations Conciliation Commission for Palestine to establish an office which, under the direction of the Commission, should:

a) Make such arrangements as it might consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III);

b) Work out such arrangements as might be practicable for the implementation of the other objectives of paragraph 11 of the said resolution;

c) Continue consultations with the parties concerned regarding measures for the protection of the rights, property

and interests of the refugees.

6. General Assembly resolution No. 513 (VI) of January 26 1952, endorsed, without prejudice to the provisions of paragraph 11 of resolution 194 (III) or of paragraph 4 of resolution 393 (V) a programme recommended by U.N.k.W.A.

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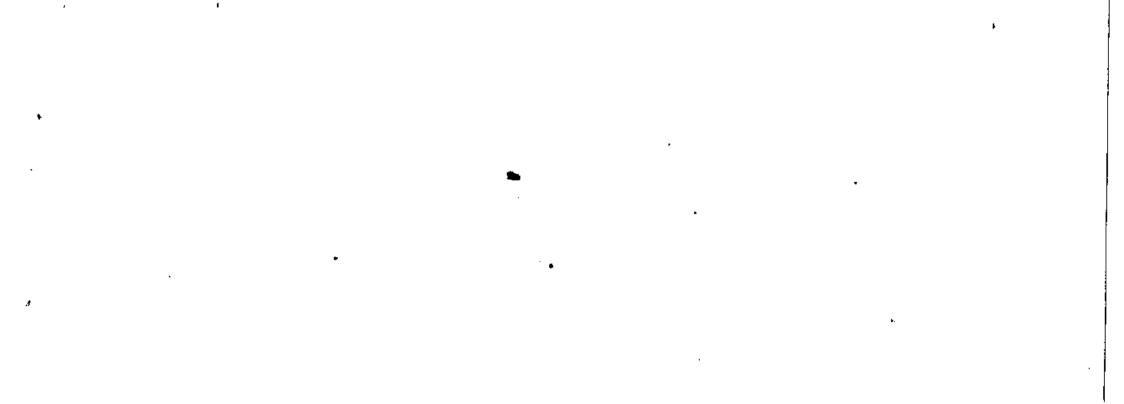
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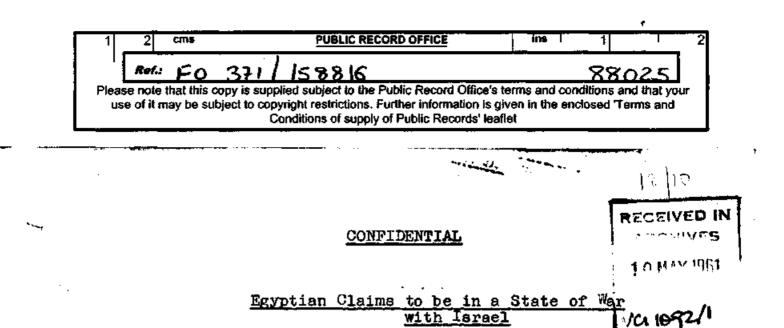
for the relief and reintegration of the refugees to be carried out over a period of approximately three years starting from July 1, 1951.

The latest General Assembly resolution on the subject 7. is No. 1456 (XIV) dated December 9, 1959. This takes note of the Secretary-General's keport (Document A/4121 the "Hanmarskjold keport") and extends the mandets of U.N.k.W.A. for a period of three years, with a review at the end of two years. The preamble of this resolution notes "with deep regret that repatriation or compensation of the refugees as provided for in paragraph 11 of General Assembly resolution 194 (III) has not been effected, and that no substantial progress has been made in the programme sudoreed in paragraph 2 of resolution 513 (VI) for the reintegration of refugees either by repatriation or resettlement and that, therefore, the situation of the refugees continues to be a matter of serious concern." Operative paragraph 4 of this resolution "Requests the United Nations Conciliation Commission for Palestine to make further efforts to secure the implementation of peragreph 11 of General Assembly resolution 194 (III)." (U.N. G.A. A/kES/1456(XIV) of December 19, 19597.

> Middle East Section Acsearch Department.

September 29, 1960.





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In 1950, the view of Law Officers of the Crown was that while a state of war might legally exist between Egypt and Israel, the longer the Armistice lasted the more did it become difficult for Egypt to justify the exercise of belligerent rights under Article X of the 1888 Suez Canal Convention (i.e. that this is "necessary for securing ... the defence of Egypt and the maintenance of public order."). In 1951 the Security Council held that "neither party could reasonably assert that it was actively a belligerent or requires to exercise the right of vigil, search or seizure for any legitimate purpose of self-defence." Since then, however, there has been the Sinai campaign. We have not sought an up-to-date opinion from the Law Officers, but the Legal Adviser has taken the view that if, for instance, the question were to go to the International Court there is a possibility that the Court would uphold the view of the U.A.R.

Flag B 2. We have advised against answering directly in Parliament Flag C the question whether a state of war exists. Mr. Profumo said in the House on February 10 that he could not pronounce on this; it was a matter which was capable only of legal interpretation and was not our affair. On the other hand, we have on a number of occasions repeated our support for the Security Council's resolution of 1951 and have consistently maintained that in the particular matter of Egypt's right to prevent the passage of Israel's ships through the Suez Canal,

Israel shares the right of all nations to free passage,

and that she is entitled to benefit under the 1888 Convention.

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This must imply that the U.A.R. Government is not justified in claiming that a state of affairs exists which entitles her to invoke Article X of the 1888 Convention. Indeed, the Secretary of State's predecessor went so far as to say in the Commons on February 17 that "for H.M.G. Flag D to call on the United Arab Republic to terminate that state of war would be to admit that it still exists, which we do not." And also that "we do not agree that there is a state of war now, but the Government of the U.A.R. maintain that there is. As far as I understand the position of the Israel Government, they say that there is not."

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1	the company of the second s
	Minutes.
	I agree with paragraph 2 of Sir Roger Stevens' minute of October 3. We have always reckoned that the Egyptians would claim that it would be necessary to prevent Israel ships passing through the Canal in order to stop public disturbances i.e. demonstrations on the banks, and because the Israelis would pack the ships with infiltrators and saboteurs, or troops.
	2. The line of argument suggested in paragraph 3 of Sir Roger Stevens' minute seems valid, and could have some force as a debating point. In practice it would only apply to any refugees who were to be resettled in Israel, and would not apply if compensation were to be offered instead. Moreover, it might be argued that the refugees have their own peculiar status as Palestiniane (except those who have acquired Jordanian nationality) and that they are not at war with Israel even if e.g. the Government of the U.A.R. is.
	(R. Arculus) October 4, 1960. <u>Mr. Variat</u> Paragraph 2 g Si Roses Stevens' minute is salt lan bally concel. The essential queetion is seally not whethis a "state of mar" exists technically between the U.A.R and Isael (indeed it is pretty will established that the mere conclusion of an annishes' does not king a

NOTHING TO BE WRITTEN IN THIS MARCIN.

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PUBLIC RECORD OFFICE ins cms Ref,: F0 37 5886 <u>8802-</u> Please note that this copy is supplied subject to the Public Record Office's terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the enclosed 'Terms and Conditions of supply of Public Records' leaflet Minutes. behmical state of nor to an end) The more mi palanti question is nhether having segand to the time of the Amilie and like situation sesulling for it and WRITTEN IN THIS MARGIN & Egyple special obligations as regards the Juey Canal, she can by ilimately exercise billy event riphle in The Canal. Even given Aat the exercise of belly event njelt i other mie justifiable, she must still show Bat this are recessary for the defence 8 of Esypt & the maintenance of ٤ public order. NOTHING 1 certainty ague that 2. pan the Inaeli pant of view The line of argument suggested in para . 3 of Sin R. Stevens minute has some price, aspecially as The separates are paramethy Araby . W.N.J. Evani Stro. Hulys 61x M

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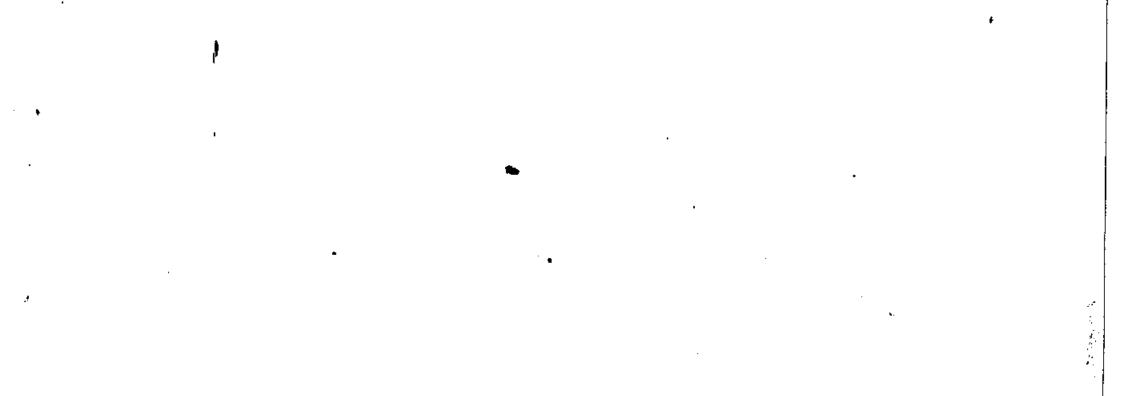
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 use of it may be subject to copyright restrictions. Further information is given in the enclosed 'Terms and Conditions of supply of Public Records' leaflet Minutes. Mr Erans has the Canal issue very Ancountly Swi R Stevans Johnis NOTHING TO BE WRITTEN IN THIS MARCIN. formilian 047 Mr Blakervill. Mr Blakervill. Mr Smartifille) Lo note existence Atuse pro-Ath. 15 M.F.P

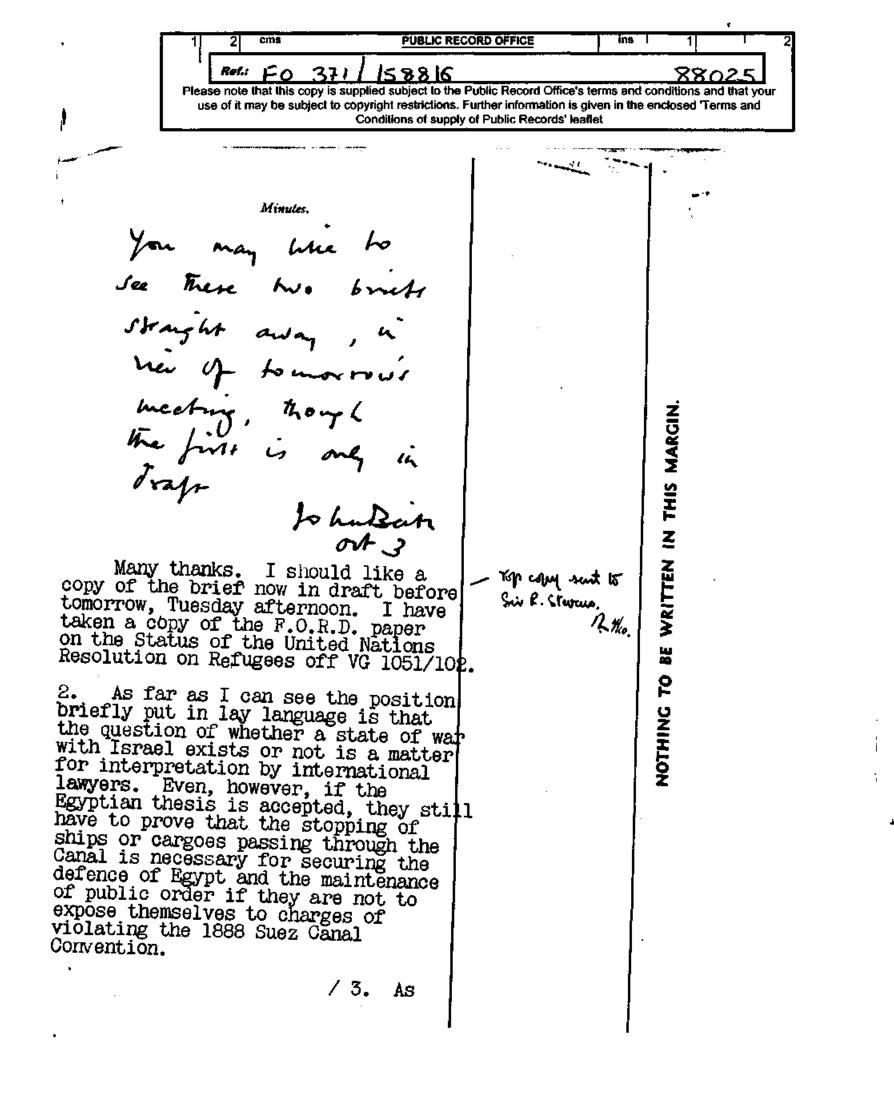
PUBLIC RECORD OFFICE ins ĊM8 2 Ref.: F٥ 37 158816 <u>8802</u> Please note that this copy is supplied subject to the Public Record Office's terms and conditions and that your use of it may be subject to copyright restrictions. Further information is given in the enclosed Terms and Conditions of supply of Public Records' leaflet Minutes. Sir Roger Stevens has asked for a brief on Egyptian claims to be in a state of war with Israel. The position on this is conveniently summarised in the Flag B minutes on VR 1072/11. The attached draft brief does little more than quote from the Law Officer's' opinion and that JE 1425/43 minute. We should nevertheless be grateful for clearance by the Legal of 1950 - flog A Advisers and for any comments which they WRITTEN IN THIS MARCIN. may wish to make. (R. Arculus) September 28, 1960. Mr. Vallat I have adoled his reference A the Locuing Councille resolution of 1951 which I think is still 8 basic A our position. NOTHING TO 27/9. Myenhim I agree that these amendments infron the draft. Though Sir R. Stevens is not now going to Cario he may like to see his (and FORD's contribution all VG-(051/102), hur rehalil may rivert to these subjects. Michilus Horderan 3879. 77 PTO Raye M.F.P.

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