

by the Trusteeship Council¹ as a result of that resolution. That statute offered a practical and satisfactory solution for the administration of Jerusalem and the neighbouring area. It appeared much better than the draft instrument proposed by the Conciliation Commission because, apart from the fact that it was not enough to protect the Holy Places, it was doubtful whether even that basic protection could be assured under the Conciliation Commission's proposals. Those propositions were, in fact, designed primarily to ensure the co-ordination, a probably precarious co-ordination, of certain services with the sole aim of protecting the Holy Places, while the importance attached to Jerusalem, a Holy City of three religions, indicated clearly enough the necessity of placing the City under international control. No national consideration, however natural, should stand in the way of the establishment of that indispensable control.

117. The Australian draft resolution did not, however, at the present stage, seek to impose the statute prepared by the Trusteeship Council, for two reasons: first, some events had taken place since its formulation which would doubtless necessitate changes in the original plan; and, secondly, it might be undesirable to define the future administration of Jerusalem in detail because the frontiers between Israel and the Arab States had as yet been neither delimited nor approved by the United Nations. The two problems were connected to some extent, for it seemed certain that the international régime in Jerusalem could not succeed without precise and stable frontiers.

118. The Australian delegation therefore proposed only to prolong the work of the Conciliation Commission and to authorize it to set up all the provisional administration it deemed necessary for Jerusalem until the frontiers were delimited and until it had submitted to the General Assembly a plan for the internationalization of the City on the basis of the principles laid down in 1947.

119. The Australian draft resolution also proposed to increase the number of members of the Conciliation Commission from three to seven. It seemed to the Australian delegation that the present Commission was not sufficiently representative and that it would certainly gain in authority in relation to the interested States if it were slightly enlarged. Furthermore, the Commission had sometimes given the impression of

Governments engaged in diplomatic negotiations rather than that of an organ of conciliation designated by the United Nations. Finally, there was nothing to justify the belief that the Commission had succeeded in the task entrusted to it under the terms of paragraph 8 of resolution 194 (III) of the General Assembly, which had instructed it "to present to the General Assembly at its fourth regular session detailed proposals in regard to a permanent international régime for the Jerusalem area". It could not be said that the draft instrument would establish an international régime in Jerusalem.

120. On the other hand, the various proposals submitted by the delegation of Israel, such as the draft agreement between the United Nations and Israel, could not be supported by the members of the Committee. All those proposals had been based on the fact that, in practice, Israel controlled a part of the City of Jerusalem. Some of them spoke of an "integration of the Jewish zone within the State of Israel" and were incompatible with the decisions previously taken by the United Nations.

121. The Australian delegation realized that its proposal could hardly be welcomed by the delegation of Israel. However, considering the role it had played at the time of the partition of Palestine and the admission of Israel into the United Nations as a Member State, the Australian delegation had the right to say that its present attitude was based only on its desire to arrive at a just and satisfactory solution of the problem. It hoped that its draft resolution would be supported by the members of the Committee, and it appealed to the Israel delegation to accede to the opinion of a great number of Members and the wishes of the greater part of world opinion.

122. The CHAIRMAN proposed that the Committee should invite the President of the International Committee of the Red Cross, who was in New York for two days, to speak on the question of the Arab refugees in Palestine at the next day's meeting.

It was so decided.

123. Mr. AL-JAMALI (Iraq) proposed that the meeting should be adjourned.

124. The CHAIRMAN put the proposal of the representative of Iraq to the vote.

The proposal was adopted by 27 votes to 4.

The meeting rose at 1.10 p.m.

FORTY-FOURTH MEETING

Held at Lake Success, New York, on Friday, 25 November 1949, at 11 a.m.

Chairman: Mr. Nasrollah ENTEZAM (Iran).

Palestine (continued)

PROPOSALS FOR A PERMANENT INTERNATIONAL RÉGIME FOR THE JERUSALEM AREA AND FOR PROTECTION OF THE HOLY PLACES: REPORT OF THE UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE (A/973 AND A/973/ADD.1) (continued)

1. The CHAIRMAN recalled that at the preceding meeting the members of the Committee had

¹ See *Official Records of the Trusteeship Council*, Third part of the Second Session, annex, document T/118/Rev.2.

agreed to hear Mr. Ruegger, President of the International Committee of the Red Cross. That procedure would be merely interpolated in the Committee's discussions, for the question of assistance to Palestine refugees was not at that stage going to be studied. The reason why Mr. Ruegger should be heard on that day was that he was in New York for only a few days.

2. When the Committee came to consider the problem of assistance to the refugees, it would have the opportunity of hearing the representatives of the other international organizations, the American Friends Service Committee and the

League of Red Cross Societies, which had collaborated in the work of the International Red Cross.

On the Chairman's invitation, Mr. Ruegger, President of the International Committee of the Red Cross, took his seat at the Committee table.

3. Mr. RUEGGER (President of the International Committee of the Red Cross) expressed his gratitude to the Secretary-General, who had asked the International Committee of the Red Cross, as well as the other international agencies co-operating with it, to be represented during the Committee's discussion of the question of assistance to refugees. Since the decisions to be taken by the Committee and the General Assembly would be most important, he had felt bound to come in person in response to the Secretary-General's invitation. He also thanked the Chairman of the Committee, who had asked the members of the Committee to pause in their discussion to enable him to communicate to them the thoughts, hopes and concerns of the International Committee of the Red Cross on the serious problem of the Palestine refugees.

4. The first interim report (A/1106) of the Economic Survey Mission for the Middle East, which was presided over by Mr. Clapp, opened up reassuring and encouraging prospects, because its proposals were likely to make it possible, in the very near future, to settle in permanent homes and in an active and useful life some hundreds of thousands of refugees, who would thus be freed from an idleness which had been forced on them and which in the long run, and in spite of all the efforts made to help them, was bound to reduce them to a state of profound demoralization, with all its serious consequences.

5. Those prospects were also reassuring to the International Red Cross, which, together with the American Friends Service Committee and the League of Red Cross Societies, had accepted the United Nations appeal of November 1948 to distribute relief in the field.¹ The Red Cross had worked in close co-operation and great confidence with the League of Red Cross Societies and the American Friends Service Committee. The Red Cross, realizing that the difficult task was one for a strictly neutral and humanitarian agency, had shown itself ready to act to the fullest extent possible. Still, it had always hoped, in conformity with its policy and general approach, that its intervention would be limited to the relief required by the circumstances. Owing to its neutral character, the International Red Cross was under a duty to intervene whenever the help of an impartial intermediary might be useful in a troubled situation. But, owing to that same neutrality, the Red Cross was duty-bound to transfer the tasks entrusted to it to other authorities as soon as the situation became settled, and as soon as the problem to be solved was one of reconstruction and resettlement. In that connexion, Mr. Ruegger referred to his telegram of 6 May 1949 to the Secretary-General² in which he had stressed that particular point and in which he had said that the programme for the settlement of refugees in permanent homes should be examined without delay by the Assembly, because relief, even if pro-

longed, was essentially provisional and intended to enable the authorities concerned to take the necessary steps to achieve the only permanent solution, which was resettlement. That view had been shared by the League of Red Cross Societies, and had also been expressed by the Standing Commission of the International Red Cross.

6. The International Committee of the Red Cross could not but welcome with profound satisfaction the completion of the studies carried out by the United Nations and the presentation of concrete and constructive proposals. Although it was not for the International Red Cross to express an opinion on the various proposals for resettlement, it nevertheless sincerely hoped that the General Assembly would not adjourn without having taken formal and constructive decisions in that field. The responsibility voluntarily assumed by the Red Cross, which worked in the field and under the scrutiny of those to whom it was distributing relief, should not be extended unduly. In particular, it should not be extended to a point where its contribution would be regarded as discriminatory in some quarters, to the detriment of its reputation for uncontested impartiality. Such a situation might have the most serious consequences in the Middle East for the United Nations itself under whose auspices, in the darkest hours, fruitful and effective action had been taken.

7. There was, however, one part of the report of the Economic Survey Mission for the Middle East on which the International Committee of the Red Cross had the right, and even the duty, to express an opinion forthwith; he was referring to that part which stated that the organizations at present providing relief in the field should continue to do so during the first quarter of 1950. In fact, the report proposed a limitation of funds, which would reduce by one-third the volume of relief distributed, or, expressed in other terms, would deprive one person in three of the rations so far allocated to him; and that at a time when the situation had worsened. Mr. Ruegger pointed out that in several vast areas where the International Red Cross was operating, the sudden and considerable reduction of the number of persons helped might be the signal for fresh disturbances. Whereas one of the essential purposes of the generous work undertaken by the Organization was the maintenance of peace, such action might, just before the plan for resettlement was to be gradually put into practice, lead to a revival of disorders which ought to be avoided.

8. According to the provisional findings in the first interim report about 65 per cent of the refugees had fled to Arab Palestine (which was part of the territory cared for by the International Red Cross) and to Gaza, almost doubling the population of those areas. Moreover, in most of the territory cared for by the International Red Cross there was, as yet, no constituted authority or continuity of governmental action, because of the recent fighting in that area. The situation was fraught with danger and would be further aggravated if one-third of the rations were to be withdrawn in the middle of winter. In the last paragraph of the chapter entitled "Guiding policies for the administration of the proposed programme" the report stated that "None of these organiza-

¹ See *Official Records of the third session of the General Assembly, Part I, Resolutions, No. 212 (III)*, paragraph 8.

² See document S/1060, annex I (B).

tions"—namely, the International Committee of the Red Cross, the League of Red Cross Societies and the American Friends Service Committee—"is qualified to administer a works relief programme or to negotiate thereon with Near Eastern Governments". He did not contest the veracity of that statement, which coincided, moreover, with what he had said before about the hope expressed by the International Committee of the Red Cross. Still, the Red Cross had been operating in Palestine for nearly two years, and had operated before the United Nations Relief for Palestine Refugees had been initiated. Early in 1948 the Red Cross had sent a large group to Jerusalem to distribute relief of a chiefly medical character to war victims and war prisoners. That group, for which the Mandatory Power had made official buildings available, had itself sustained many casualties and had been able to note how swiftly incidents could assume serious and tragic proportions.

9. He recalled that, in the spring of 1949, Jerusalem had been the scene of certain disturbances, some of the local population having insistently demanded rations which the International Red Cross agents were strictly reserving for refugees, in other words, for persons entering the area from outside. The International Committee of the Red Cross had done everything in its power to act in accordance with the spirit of the General Assembly's resolutions 194 (III) and 212 (III) and to issue those United Nations rations to refugees only. It had, of course, been difficult, in spite of nine months of effort, to carry out a strict census of the refugees. Moreover, the International Red Cross had lacked the necessary funds to do so, as well as the large staff which it would have involved. For that reason, the interim report of the Economic Survey Mission for the Middle East merely spoke of an "estimate". That estimate had been particularly difficult to arrive at in an area where governmental sources of information were lacking. In addition, the International Committee of the Red Cross, impressed by the misery of the refugees and acting, as always, in agreement with the League of Red Cross Societies, had appealed to international generosity, and had thus been able to make a substantial relief contribution to the funds provided by the United Nations. Such facts certainly justified a relaxation of the criteria governing distribution.

10. To relieve the very real sufferings of the inhabitants of Jerusalem and to mitigate the resulting unrest, he had been obliged to initiate a programme of supplementary relief for needy persons who were not refugees. That programme, though modest, had made it possible and was still making it possible to feed 15,000 refugees in Jerusalem who had been unable to understand why they should be excluded from United Nations assistance; that supplementary relief had been financed partly from private donations but mainly out of the funds of the International Committee of the Red Cross itself. There were also many persons acutely in need in Hebron, Nablus and elsewhere; unfortunately, the slender resources of the International Red Cross had not been sufficient to provide assistance for them. It was therefore clear that an immediate reduction in the United Nations rations would be felt by the refugees themselves, and would make it even more difficult for the International Red Cross to do its work.

11. In conclusion, Mr. Ruegger appealed to members of the Committee and of the General Assembly not to decide, on a rigid and mechanical basis, to reduce, as from 1 January 1950, the rations which the United Nations was putting at the disposal of the International Red Cross. Under the express terms of the agreements reached at Geneva and renewed on 16 June 1949, the mode of co-operation between the International Red Cross, the League of Red Cross Societies and the American Friends Service Committee were to be reviewed in the very near future, in the course of conducting negotiations with the United Nations. The United Nations should not be bound by rigid instructions which would not allow the International Red Cross to undertake, as it would wish to do and as was particularly desirable, to continue the distribution of relief among several categories of sufferers during the winter. He felt sure that members of the Committee would understand, for he had found the Secretary-General very understanding.

12. The relief of Palestine refugees, which had been supported by so much good will, must be carried through to a successful conclusion; it should lay the foundations for the smooth transition into the large-scale programme of resettlement which the United Nations would consider later. A vital humanitarian undertaking would thus have been successfully completed; for the refugees in the Middle East, the programme was of the highest importance and its operation would have made it possible to develop methods of relief which might be used to help those in distress throughout the world.

13. Mr. Ruegger repeated that the bodies responsible for the negotiations between the United Nations and the three relief organizations operating in Palestine should not have their hands tied by rigid instructions which, from the outset, limited the number of rations to be distributed. Such a limitation could only be justified by the speedy application, which was highly desirable, of the resettlement plan. Hence the General Assembly's directions should be fairly flexible, particularly since the Assembly would be adjourning before the end of the year, at a time when the problem of relief for the Palestine refugees would be growing daily more acute and distressing.

14. The CHAIRMAN thanked Mr. Ruegger for his statement.

15. He then invited the Committee to resume consideration of the item before it, namely, the proposals for a permanent international régime for the Jerusalem area, prepared by the Conciliation Commission (A/973).

16. Mr. CHOUKAIRY (Syria) said that the peculiar character of Jerusalem hardly needed elaborating. It was the seat of several religions, and its religious buildings varied as greatly in their architecture as in the nature of the ceremonies held within them. Jerusalem had seen the birth of the moral ideas of humanity, and had witnessed events which were part of history. The soil itself was universally regarded as holy and, though barren, was rich in spiritual treasures and memories of divine revelations. For centuries Jerusalem had received pilgrims in their thousands and charity had from time immemorial been practised in its hospitals and schools. In its cemeteries rested the remains of saints, martyrs, believers, heroes

and scholars. Thus, every corner of Jerusalem was a living museum, bearing witness to its holiness and greatness.

17. But Jerusalem, a human and therefore terrestrial city, had to be the patrimony of a nation. The Arabs were destined to be that nation. The city was an integral part of the Arab world. Its history, geography and social life all indicated clearly its Arab character. From time immemorial Jerusalem had been part of Syria. It had been an Arab city since the seventh century, after its deliverance from the yoke of Rome. Like Damascus, Cairo and Baghdad, it had shared in the making of Arab history, in its glory and decline, and in that renaissance upon which modern civilization rested.

18. The Arabs had inherited from their ancestors a sacred right and a duty regarding Jerusalem: to defend the Holy City and the Holy Places from aggression, to safeguard freedom of worship and of conscience for the pilgrims, and to secure free access to the Holy Places. That duty, which the Arabs had proudly fulfilled without discriminating against any community, whether Christian, Moslem or Jewish, had become a tradition in the Arab world which had been respected for centuries, and which had been maintained long before there were any constitutions or international conventions.

19. When the city of Jerusalem had surrendered to Caliph Omar in the seventh century, that great ruler had granted freedom of worship to its inhabitants in a treaty unparalleled in history. With exemplary benevolence and tolerance, it had guaranteed the Christians security of life, of property, and of freedom of worship; it might be said to have turned the vanquished into victors. Though concluded long before international law existed, and centuries before the Universal Declaration of Human Rights came into being, the treaty had both preached and translated into fact the ideal of freedom of worship. In the report written in 1946 by the then Chief Justice of Palestine, Sir William Fitzgerald, it was said, with reference to the conquest of Jerusalem, that no conqueror had ever displayed such noble and generous sentiments as those manifested to the inhabitants of Jerusalem by Caliph Omar; one of the conditions of capitulation which had been faithfully observed was that the churches, lives and property of the Christians should be respected. In his report Sir William had added that the treatment accorded to the vanquished Christians would forever assure the Arab race an honoured place in the annals of Jerusalem.

20. The attitude of the Arabs towards the Jews was clearly above suspicion. Convincing evidence of that fact could be found in the utterances of the Jews themselves. In their memorandum submitted in 1938 to the Palestine Partition Commission, the Jewish Agency had admitted that the Arab conquest of Jerusalem had resulted in an improvement in the position of the Jewish community in the city. The Jewish Agency had further detailed how, under the successors of Saladin, synagogues had been built and rabbinical courts established. In the nineteenth century, when Palestine had been overrun by Mohammed Ali, the founder of the Egyptian dynasty, the Jewish com-

munity—according to the statement of the Jewish Agency—had continued to develop and prosper. In 1841, when Jerusalem had been restored to the Ottoman Empire, the Chief Rabbi of Jerusalem had been granted the same powers and privileges as were exercised by the spiritual heads of other communities. Accordingly, under the Arab rule the Jewish community in Jerusalem had flourished; it had prospered and the Jews had freely practised their religion. Sheltered in the Arab world, persecuted elsewhere: such had been the position of the Jewish community. Yet the Arabs were reaping in destruction and murder the reward of their chivalry and benevolence.

21. Under Arab rule the Jewish community had been secure from persecution, and the Holy Places had been protected. Since the advent of Zionism, however, and the attempt to establish Jewish sovereignty in Palestine, the Holy Places had been threatened with complete destruction. He quoted from the statements of the highest Christian authorities in Jerusalem, as given in a report dated 31 May 1948, in which it was stated that, in spite of the cease-fire of 14 May 1948,¹ the Jews had taken advantage of the eight-day truce to occupy all the strategic points in Jerusalem and to launch an attack against the Holy City, turning it into a battlefield and a scene of large-scale destruction. The report added that complete peace had reigned in the Arab sector in pursuance of the order given by the Arab authorities to cease fire forthwith. The report mentioned several convents which had been occupied by the Jews, as well as the French and Italian hospitals, even though they had been placed under the protection of the Red Cross flag. Those buildings, the Hebrew University, the Jewish Hospital and two synagogues had been used by the Jews as military bases for firing on the Holy City.

22. He proceeded to quote extracts from the book *Palestine is our Business* by Millar Burrows, professor of theology at Yale University,² which mentioned the deaths of numbers of priests and the desecration and destruction of sacred buildings by men and women of the Jewish forces.

23. It was in the light of those events that one should regard the statement made to the General Assembly by the representative of Israel³ who had proposed that the internationalization of Jerusalem should be limited to the Holy Places. It was doubtful whether Mr. Eban's theories, when implemented, would succeed in safeguarding the Holy Places. Apparently, under the Zionists' peculiar code of war, Holy Places might be used as targets and hospitals, universities and synagogues as military bases.

24. The determination of Zionist circles to capture the whole of Jerusalem in order to make it a Jewish capital was sufficient justification for the fears of millions of believers throughout the world as to the future of Jerusalem and of the Holy Places. Mr. Eban had recently reaffirmed that intention in the General Assembly⁴ and had attacked the plan proposed by the Conciliation Commission on the grounds that it would replace the existing administration of Jerusalem based on popular consent by a new administration which would not have the same democratic basis. It was

¹ See *Official Records of the second special session of the General Assembly, Resolutions*, No. 186 (S-2).

² Westminster Press, Philadelphia, 1949.

³ See *Official Records of the third session of the General Assembly, Part II, Ad Hoc Political Committee*, 45th meeting.

⁴ *Ibid.*

very regrettable that Mr. Eban should have used the word "democratic" in that context, as the very fact that the Zionists were in control of part of Palestine and of Jerusalem constituted a negation of democratic principles.

25. Mr. Eban based his country's alleged claims to Jerusalem on the provisions of the armistice agreements concluded between Israel and the Arab States. He had stated that the situation in Jerusalem was perfectly legal since it corresponded to the terms of the armistice agreement signed by the parties and endorsed by the Security Council. In fact, however, the agreement explicitly stated that the terms of the armistice had been dictated exclusively by military considerations and were entirely without prejudice to the rights of the parties in the ultimate settlement of the question. With regard to the Jerusalem area specifically, articles V and VI of the armistice agreement with the Hashemite Kingdom of Jordan¹ clearly stated that the demarcation line had been agreed to by the parties for military reasons without prejudice to future territorial settlements or the rights and claims of either party relating thereto. That was sufficient proof of the weakness of the position adopted by Israel on the question.

26. As Mr. Eban himself had recognized, Israel's presence in Jerusalem was an accomplished fact, the achievement of which had been accompanied by some of the most tragic acts of Zionist terrorism in Palestine. He did not wish to give a long list of the outrages perpetrated by the Zionists during the last days of the Mandate, but would merely mention the horrible crime which they had committed in the small village of Deir Yasin near Jerusalem: on 10 April 1948, while British troops were still in Palestine, the 250 inhabitants of the village, including women and children, had been massacred by the Zionists; the Red Cross representative who, two days later, had been given permission to visit the spot, had discovered 150 mutilated bodies in one well.

27. That was how the Zionists had been able to approach the city and prepare for what Mr. Eban called the "accomplished fact". The statement made by the head of the Stern organization and published in the newspaper *Star News* on 9 August 1948, constituted sufficient evidence: "Everybody knows it was the Deir Yasin attack that struck terror into the hearts of the Arab masses and caused their stampede. That blessed miracle has strengthened us and dealt the enemy a far greater blow than all the combined wisdom of the Haganah commanders could have done."

28. It was by such massacres that the Zionists had been able to force the evacuation of numerous Arab quarters outside Jerusalem and of undefended villages in the neighbourhood of the city. Those were the facts which enabled Mr. Eban to stand up in the General Assembly and say that "Jewish Jerusalem" was an "accomplished fact".

29. Nor had Mr. Eban used the expression "Jewish Jerusalem" by chance; it had been used on many occasions by spokesmen of the Zionist movement. A virtual campaign to mislead world public opinion as to the true nature of Jerusalem and to convince the world that Jerusalem was a Jewish city, was in progress. That claim was completely controverted by the figures collected by

Sub-Committee 2 of the *Ad Hoc* Committee on the Palestinian Question and published in paragraph 66 of the Committee's report dated 11 November 1947:² it showed that in the Jerusalem sub-district the Arabs represented 62 per cent of the population and the Jews 38 per cent, and that in the same area the Arabs owned 84 per cent of the land and the Jews only 2 per cent. Consequently, therefore, Jerusalem was still, as in the past, an overwhelmingly Arab city with a Jewish minority.

30. That was precisely the conclusion that had been reached by the United Nations Mediator, who in a letter to Mr. Shertok dated 6 July 1948, had written that Jerusalem stood in the heart of what must be Arab territory in any partition of Palestine. Possibly that opinion of Count Bernadotte was not unconnected with his tragic death in the very heart of Jerusalem; only recently, a member of the Israel Parliament, a former Irgun leader, had stated in a broadcast that the new United Nations Commissioner for Jerusalem, Mr. González Fernández, might suffer the same fate as the United Nations Mediator if he tried to carry out the internationalization of the City of Jerusalem.

31. However that might be, the immediate issue was a decision on the status of the Jerusalem area, and the attitude of the Arab world had to be made known. Of course, if national aspirations, democratic principles and the principle of self-determination were taken into account, it must be hoped that Jerusalem would continue its traditional life as an Arab city. On the other hand, if the appeal of millions of believers throughout the world who fervently desired the internationalization of Jerusalem as a *corpus separatum* were considered, one was tempted to accede to that appeal behind which could be discerned the noble desire to save the Holy City from total destruction. Unlike Israel, which had objected to the creation of an international régime in Jerusalem, the Arab States would, therefore, agree to examine impartially and with an open mind the pros and cons of the plan submitted by the Conciliation Commission. The striking difference between the attitude of Israel and that of the Arab States was very revealing.

32. The Syrian delegation did not intend to examine in detail at that stage the draft statute drawn up by the Conciliation Commission; generally speaking, and though disagreeing on certain matters, it felt that, as a whole, the endeavours of the Commission merited appreciation.

33. It was in that spirit that the Syrian delegation wished to submit for the consideration of the *Ad Hoc* Political Committee five basic premises, which, in its view, should guide the establishment of an international régime in Jerusalem, always assuming, of course, that the idea of internationalization was accepted.

34. The five premises were as follows:

(1) To ensure stability, the international régime should be established in Jerusalem only following the enforcement of the territorial clauses of General Assembly resolution 181 (II) of 29 November 1947. To isolate Jerusalem from the problem of Palestine as a whole would not be practical, and would make it even more difficult

¹ See *Official Records of the Security Council*, Fourth Year, Special Supplement No. 1.

² See document A/AC.14/32.

to achieve the purposes contemplated by the General Assembly resolution.

(2) To secure effective control in Jerusalem, the whole of the Holy City must first be completely demilitarized within a specified minimum time-limit. The United Nations should adopt a democratic constitution for Jerusalem containing adequate provisions with regard to the Holy Places, to the fundamental freedoms, and to human rights.

(3) The re-establishment of normal conditions should be considered as a necessary prerequisite for the internationalization of Jerusalem, and all those refugees who were habitual residents in the Jerusalem area should be repatriated without delay; their property and land should be returned to them and any legislative or other impediments thereto should be declared null and void.

(4) To maintain the security and unity of the Jerusalem area, the United Nations should establish at its head a single central administration; municipal services should be entrusted to municipal authorities who would be Arab in the Arab city and the Arab quarters outside the city walls, and Jewish in the Jewish quarters. In towns and villages within the Jerusalem area but outside the city, local councils should be established which would be Arab when the majority of the population was Arab and Jewish when the majority was Jewish.

(5) The International Court of Justice should be empowered to restrain or rescind any action, legislative, administrative or otherwise, by whomsoever made, which in the judgment of the Court was an abuse of power under the Constitution or was calculated by its nature to frustrate or defeat the objectives of the international régime.

35. Those basic premises were surely not inspired by any national or racial considerations. Furthermore, they were in complete conformity with the resolutions adopted by the United Nations.

36. In conclusion, the Syrian delegation wished to recall the terrible sacrifices sustained by the Arab soldiers in the defence of Jerusalem against the attacks of overwhelming enemy forces. It was thanks to the heroism of the Arab soldiers that Jerusalem had been saved from total destruction, and was in a position to be internationalized.

37. Sir Alexander CADOGAN (United Kingdom) stated that his Government whole-heartedly supported the principle that a permanent international régime should be established for Jerusalem.

38. Recalling that the General Assembly had given the Conciliation Commission the task of drafting proposals for a permanent international régime for the Jerusalem area, he said his delegation, like those of the United States, France and Turkey, regarded the document prepared as an admirable reconciliation between the apparently conflicting claims of the international community and the inhabitants of Jerusalem who felt allegiance to Israel or to Jordan. That was why the United Kingdom delegation supported the draft statute, while admitting that it might have to be amended slightly in order to make it more acceptable to the parties concerned. In that spirit, the United Kingdom would gladly welcome changes that might be proposed, provided that they did not

upset the balance which the Conciliation Commission had sought to preserve between the international interest and national loyalty, and provided they took sufficiently into account the special place occupied by the Holy City in the hearts of Christians, Jews and Moslems everywhere. There was no doubt that if the question was considered in a spirit of conciliation and mutual understanding, it would appear that the Conciliation Commission's proposals provided a workable arrangement which would safeguard the rights of all concerned.

39. The United Kingdom delegation had listened with interest and sympathy to the arguments advanced by the Australian representative, who proposed return to the plan for the internationalization of Jerusalem recommended by the General Assembly in its resolution 181 (II) of 29 November 1947. That plan had, perhaps, been very well adapted to the situation as it existed at the time; but it must be remembered that it had remained unimplemented along with the whole plan for partition with economic union of which it was part. In those circumstances, it was permissible to ask whether the plan was adequate to the needs of the present situation. The United Kingdom delegation doubted if it was.

40. The United Kingdom delegation's doubts in that matter were further strengthened by the opinion of the Conciliation Commission, which had deemed it appropriate to make new proposals. The Conciliation Commission had had the opportunity to study the Palestine question intensively over a long period, and it was in a better position than any single delegation to speak authoritatively about the situation in Jerusalem. It would, he felt, be presumptuous for the members of the *Ad Hoc* Political Committee to question the wisdom and value of the Conciliation Commission's findings as embodied in the draft statute it had submitted to the General Assembly. The United Kingdom delegation, for its part, adhered to the opinion of the Conciliation Commission, and hoped the other delegations would do the same.

41. The United Kingdom delegation was therefore unable to support part A of the operative part of the Australian draft resolution (A/AC.31/L.37) and still less the amendments thereto submitted by El Salvador (A/AC.31/L.40) and the USSR (A/AC.31/L.41), since those various proposals advocated a return by the Conciliation Commission to General Assembly resolution 181 (II) of 29 November 1947. Such a step backwards struck him as unwise at a time when the Conciliation Commission was proposing to the General Assembly a solution which satisfied the needs of the present and the future.

42. Part B of the operative part of the Australian draft resolution dealing with the Conciliation Commission was largely ancillary to part A, and would be unnecessary if the latter were not adopted. Whatever action, however, might be taken on part A of the draft resolution, the United Kingdom delegation could not support the proposal to increase the number of members of the Conciliation Commission to seven. The Conciliation Commission as constituted had done a good job under very difficult conditions. It had acquired an accurate knowledge of the question and established contacts with local personalities concerned. The whole outcome of its task de-

pendent on its ability to continue its efforts without being troubled by a change in its membership. If it were enlarged, it would certainly lose some of its efficiency as a conciliation body. There would therefore be no advantage to offset the extra expense to the United Nations which the enlargement of the Conciliation Commission would entail. The contrary was in fact the case.

43. To sum up, the United Kingdom delegation gave its general support to the Conciliation Commission's draft statute, but was prepared to consider any changes that might be suggested in a spirit of compromise and mutual respect. It commended the Conciliation Commission for its appreciation of all the conflicting interests in Jerusalem and hoped it might be allowed to bring its conciliatory work in the rest of Palestine to a successful conclusion during the coming year.

44. Mr. SHARETT (Israel) said that for the time being he would confine his remarks to a general statement and reserved his delegation's right subsequently to deal in detail with the draft resolutions, and particularly with that of Australia and with the charges that had just been levelled against Israel by the Syrian delegation.

45. He noted that the subject of Jerusalem continued to be a matter of deep feeling and controversy, for which it was time to arrive at a fair and lasting settlement. Such a settlement would not be difficult to attain if the different claims were realistically appraised and a sincere effort was made to harmonize them. It was in such a spirit of co-operation and realism that his delegation approached the problem of the future of Jerusalem.

46. The Holy City was an object of interest to the entire civilized world; but he considered that such universal veneration should not overshadow the special interests of the Jewish people, which regarded Jerusalem as the symbol of past glory, the lodestar of its wanderings, the subject of its daily prayers and the goal of its hopes for eventual redemption. That contrast between national and international psychology in regard to Jerusalem was undeniable.

47. It was that singular attachment to Jerusalem which, even under Ottoman rule, had led the Jews to form the majority of the city's inhabitants, and had subsequently induced them to re-create in it their spiritual, cultural and political centre in Palestine.

48. That position of Jerusalem in the life of Jewish Palestine and the Jewish people throughout the world was fully accepted by enlightened world public opinion. He recalled that when the United Kingdom was first contemplating in 1937 the establishment of a Jewish State in Palestine, the Primate of the Church of England, the late Archbishop of Canterbury, had insisted that Jerusalem must be an integral part of it; and in the 1944 edition of the *Westminster Dictionary of the Bible*, published in the United States by Christian theological authorities, Jerusalem was described as "the sacred city and well-known capital of Judah, of Judea, of Palestine and of the Jews throughout the world".

49. An immense sacrifice was therefore entailed in the renunciation by the Jewish representatives before the General Assembly of 1947, of their claim for the inclusion of Jewish Jerusalem in the

Jewish State. He doubted whether there had ever been a similar voluntary concession of a supreme national interest in deference to a consensus of international opinion. Yet, that act of self-denial had proved fruitless, and, had it been maintained, it would indeed have proved disastrous, because the international community had failed to exercise the authority which it had claimed and received.

50. Faced with a brutal onslaught of bloody violence by Arab forces upon the Jews of Jerusalem, the United Nations had chosen to retreat from its solemn responsibility. He was not attempting to apportion blame, but merely stating a fact, a fact pregnant with far-reaching consequences. At the crucial and decisive stage, when the authority which had ruled Jerusalem for thirty years had ceased to exist, the resulting vacuum had not been filled by the United Nations. The abdication of the Organization had been complete.

51. The statute of Jerusalem worked out by the Trusteeship Council with the full co-operation of the Jewish representatives had been shelved. Repeated attempts to regitalize it into life had been staunchly resisted by the Trusteeship Council and the General Assembly. The last of those attempts had been made in the meeting of the Trusteeship Council on 29 July 1948.¹ On that occasion, the author of the proposal had been the only one to vote for it. Eight members had voted against it and three had abstained.

52. It might well be that the United Nations had originally accepted the responsibility for the administration of Jerusalem without due deliberation and foresight. Faced with an emergency, it had discovered that it had no means to cope with it, and had been obliged to adopt an attitude of pure passivity. If that was the case, it was idle to urge, at that stage, a return to a constitutional *status quo ante* as if nothing had happened meanwhile.

53. By their victorious struggle, the Jews had regained not merely their stake in Jerusalem, but the link between it and the State of Israel. That bond had been cemented by the blood shed by the 1,490 Jewish men, women and children who had fallen, as civilians or as soldiers of Israel's Army, in Jerusalem alone. The sufferings and resistance of those heroes had only reinforced their will and conviction that the State of Israel and the City of Jerusalem should constitute an inseparable whole. The dictates of self-preservation had prevailed against the original willingness to accept an international verdict. Just as that verdict had proved inoperative because those whose duty it was to uphold it had failed in their obligations, so the acceptance of it by the Jews through a renunciation of their basic claim had been nullified by the course of events.

54. Even after the mortal peril had been averted, the need to man the defences had remained. The task had been naturally entrusted to Israel's army of defence. The lines of communication established, in the heat of battle, between the City of Jerusalem and the State of Israel, such as the new road and the aqueduct, had been taken over by the competent ministry of Israel; and the same was true of the supply and rationing system, and the financial and police services. The laws of Israel had been extended to Jerusalem, since it would have been ludicrous to attempt to set up a

¹ See *Official Records of the Trusteeship Council*, third session, 35th meeting.

separate legislative system for Jerusalem. Thus, in every administrative respect, the city had been integrated in the State, and the links between Jewish Jerusalem and the rest of Jewish Palestine, which had been broken by the enemy attack, had been restored and strengthened. Jerusalem, however, had never been and would never be an ordinary city: its central position and unique dignity could not be ignored. For both economic and moral reasons, the transfer to it of central institutions such as had always been housed there, was indispensable.

55. The Australian representative, who had depicted that course of developments as a deliberate plan to flout the decision of the United Nations, might well be invited to visualize his own Government facing the same ordeals, enduring the same sacrifices, burdened with the same responsibilities and acting as the sole custodian of the same historical values. He doubted whether the Australian representative would be able to say that his Government would have acted differently.

56. The Government of Israel could not admit that the rescue of Jerusalem, or any action necessitated by it, could be the subject of the slightest justifiable reproach.

57. The Australian representative had quite rightly referred to the notable part played by his Government and delegation in helping Israel to achieve its present position. Mr. Sharett took the opportunity of paying tribute to the personal contribution of the Australian Minister of Foreign Affairs and the Australian representative himself to the recognition of Israel and its admission to the United Nations. It was not simply a question of friendship or sympathy, and that of Australia for Israel was certainly not a passing phase, but of the recognition of elementary needs and processes of life.

58. The Australian representative's assumption that at the first part of the third session of the General Assembly the delegation of Israel had declared its agreement to a reversion to the terms of the resolution of 29 November 1947 in respect of the status of Jerusalem or the boundaries of Israel, must be based on a misunderstanding on the part of either the Australian or the Israeli delegation. He insisted that, so far as that resolution was concerned, the conscience of Israel was clear. Israel was not responsible for its non-application. Israel alone, of all the parties concerned, had been prepared to implement that resolution at the time, with all the restrictions it entailed for the country's future. Other parties had attempted to destroy the resolution or had adopted a passive attitude. If, as a result of that attitude, events had taken a different course, that was no longer a situation which could be changed.

59. Israel would always be conscious of the debt it owed to the United Nations for the recognition of its right to live as an independent nation in its own country, which was to Israel the main and eternal element of the resolution of 29 November 1947. Nor would Israel forget how, despite that resolution, it was very nearly crushed out of existence and how, fortified only morally by the resolution, it had fought alone to save its future.

60. The inevitable conclusion from recent experience and the existing situation was that no international régime, however wisely constituted, and even with all the necessary funds and armed

forces at its disposal, would ever have been able to meet the needs and provide for the growth and development of Jewish Jerusalem as adequately as the Government of Israel, with all its limitations and shortcomings, was doing. And even if it succeeded on the purely material and administrative side, it would perforce have failed in what should be the central objective of all good government: the guarantee of a free and independent life.

61. The setting up of an international régime over Jerusalem that did not derive its authority from the freely expressed will of its inhabitants would deny those inhabitants the elementary right enjoyed by their compatriots elsewhere as citizens of independent States. It might be asked: did the religious associations of Jerusalem justify such a denial? Could not the Holy Places and religious associations be protected otherwise than by limiting the Jewish inhabitants of Jerusalem in the exercise of their civic and political self-determination? Was it indeed in the long-term interest of churches and religious institutions that they should be charged with responsibility for permanently interfering with the normal course of secular life and the full self-direction of the population? Was there no way of satisfying the deep religious sentiment centred around Jerusalem throughout the Christian and the Moslem worlds without encroaching upon the normal sovereignty of Israel?

62. His Government's answer to all these questions was in the negative. It accepted the sanctity of the religious associations with which Jerusalem was hallowed, and it was ready to guarantee that, as far as the area under its control was concerned, they would be fully respected. It was one of the fundamental principles enshrined in the Declaration of Independence of Israel that freedom of worship and the observance of religious customs and rites were to be fully safeguarded; included in the freedom of worship was freedom of pilgrimage and safety of access to all Holy Places and shrines. The Government of Israel was ready to undertake special responsibility for the safety and inviolability of Holy Places in the Jerusalem area, and accepted the supervisory authority of the United Nations in regard to the Holy Places. But it denied that, for all these purposes, it was necessary to curtail the independence of the people of Israel and to introduce an outside authority into the regulation of its internal life. Moreover, his Government did not see how, in practice, such curtailment could be effected in the case of the Jews of Jerusalem, who enjoyed the same political and civic rights as their fellow citizens of Israel or, for that matter, as the citizens of any free and democratic country. Since the limitations originally contemplated had not materialized, it was physically impossible to impose them at the present stage.

63. The draft instrument prepared by the Conciliation Commission for Palestine was unacceptable to Israel because its basis was the establishment of an outside authority over a whole area, which amounted to the subjection of the Jews of Jerusalem to undemocratic rule and the curtailment of the independence of Israel. From that fundamental principle were derived a number of features which were as unjust as they were impracticable. The existence of an authority rivalling and, in fact, superior to that of the State would serve as a perpetual source of confusion and fric-

tion. No stable régime could be erected on that basis.

64. For that reason, his delegation was forced to conclude that the somewhat modified version of the draft instrument outlined in the statement of the United States representative did not meet the point at issue. His delegation noted that the United States representative had dissociated himself from the proposition, contained in the draft instrument, that the United Nations Commission be empowered to limit or prohibit the settlement of Jews in Jerusalem; but his delegation felt uneasy over the fact that, according to the United States representative, the Commissioner should retain supervisory control in times of emergency.

65. His delegation also noted the belief expressed by the United States representative that the laws of Israel would continue to apply as they do at present to Jewish Jerusalem and that the decision as to what political régime should prevail would be left to the inhabitants and to the authorities concerned with administration.

66. But those mitigations, though important, did not affect the core of the matter. The basic principle was retained of a permanent international régime which extended over a territory and exercised direct authority overriding that of the State or conflicting with it. The exigencies of religious symbolism were given gratuitous predominance over the needs of life. It was true that, within the framework of the international régime, a maximum extent of local autonomy was repeatedly urged, but that could not be accepted as a consolation. The term "local autonomy" was more disquieting than reassuring. It was an obvious euphemism for lack of independence.

67. Thus, the conception of the United States representative retained the establishment of a General Council, with vaguely defined powers but with inevitable possibilities of interference with the normal conduct of government. That such a council should develop a corporate feeling was illusory. The inevitable split between the two national entities would enthrone the chairman, the United States Commissioner, as a supreme arbiter, to the complete denial of self-government. A complicated system of United Nations courts with jurisdiction conflicting with that of the State courts was another negative feature of the scheme.

68. As to the question of the immediate demilitarization of Jerusalem, to which the United States representative had attached so much importance, Mr. Sharett thought that no illusion could be more dangerous. The proposal reflected a genuine concern for the peace and safety of Jerusalem, but whether its practical implications had been fully realized seemed doubtful.

69. The security of Jerusalem was governed by the armistice agreement between Israel and the Hashemite Kingdom of Jordan, the terms of which, particularly in Jerusalem, had been scrupulously observed, as far as the avoidance of hostilities was concerned. Complete peace and quiet had reigned throughout the city for many months. The armistice had enabled and entailed a partial reduction of armed forces on both sides; if formal peace followed in its wake, a further reduction would undoubtedly take place. But to urge an abrupt and complete disarmament was not merely

asking for the impossible; it would be defeating one's own avowed purpose.

70. Jewish Jerusalem was surrounded on three sides, north, east and south, by Arab territory. A complete bilateral disarmament of Jewish and Arab areas in Jerusalem would not establish a secure equilibrium. It would leave the Jewish area in a position of very marked inferiority, extremely vulnerable to sudden attack which it would be unable immediately to ward off. The Jews were not prepared to run that risk; only a prolonged period of undisturbed quiet could effect a change in their attitude. In view of past events, if demilitarization were imposed and enforced, the effect would be to call forth reactions hardly conducive to peace and order. The armistice agreement was a binding international instrument and its provisions could be modified only by the mutual consent of the parties in accordance with the terms of the agreement.

71. His Government thus rejected the draft instrument even in its mitigated form. It noted that the United States delegation was ready to examine any new proposals which would facilitate the task of reaching a general agreement. No settlement could be effective and lasting which did not leave the established authority in full possession and undisturbed exercise of all normal functions of government. The problem would not be solved by subordinating ordinary life to religious interests; nor did the religious interests require such subordination. Jerusalem was not merely a collection of Holy Places, religious buildings and sites. It was, notably in its new part, a town of industry and commerce, of education and culture, of literary and artistic activity. Its citizens had declared time and again through their elected representatives that they recognized as their Government only the Government of Israel. It was difficult to see how their obedience to another authority could be required. The fact that Jerusalem contained shrines of other religions and was held sacred by millions in countries near and far, did impose obligations on its inhabitants and responsibility on their Government. The need, from the international viewpoint, to protect the Holy Places and to ensure the religious interests of all communities in the Holy City should by no means be sacrificed for the sake of the people of Jerusalem; but neither should the rights and interests of the people be jeopardized because of the city's religious associations. There was no need for sacrifice on either side when mutual harmony could be attained.

72. His delegation had previously had opportunities to indicate the nature of the solution of the problem which it considered both practicable and fair. It accepted the principle of international concern as regards the Holy Places, which was expressed through the instrumentality of the United Nations. It accepted the idea of an international régime to correspond to that concern but, in its conception, that international régime should be of functional, not territorial, character; it should, in fact, be concerned with the supervision of the Holy Places and the enforcement, through the appropriate authorities, of measures necessary for their protection and accessibility. It pointed to the possibility of supplementing the exercise of such functional authority by the United Nations throughout the area of Jerusalem with the complete internationalization of the Old City, which represented a massive concentration of all the

main shrines. As to the function of supervision in the area controlled by Israel, his delegation believed that the best way to ensure its effective discharge was through an agreement solemnly to be concluded, by virtue of a special resolution of the General Assembly, between the United Nations and the Government of Israel, providing for the obligations of that Government and for the prerogatives of the United Nations in that regard.

73. The conclusion of the agreement would represent no derogation from the authority of the General Assembly, which remained supreme. Mr. Sharett was happy to be able to assure the representative of France that the apprehensions he had expressed on that score were unfounded. The idea of an agreement was based on the assumption that an obligation was morally more binding if contracted by virtue of an agreement freely entered into, rather than if formally imposed by a superior authority. His delegation was convinced that a more effective responsibility would thus be shouldered by the Government of Israel and that the long-term interests of the Holy Places and religious associations would thereby be better served.

74. To avoid any misunderstanding, Mr. Sharett recalled that the concept of a functional international régime was clearly set forth before the *Ad Hoc* Political Committee on 5 May 1949¹ by the representative of Israel, prior to Israel's admission to membership in the United Nations; Mr. Sharett quoted an extract from the statement made then by Mr. Eban.

75. The importance of the distinction between the Old City and the New City could not be over-emphasized; the Old City, which contained the chief sanctuaries of the three faiths, all the Christian patriarchates, a number of monasteries, the Moslem ecclesiastical foundations and a Jewish quarter, with all the ancient synagogues, covered only 6.5 per cent of the municipal territory of Jerusalem and only 2 per cent of its town plan-

ning area; it was for the most part a maze of narrow, winding, vaulted alleys flanked by old and insanitary buildings.

76. The Walled City was in Arab hands. Its Jewish synagogues, which had been damaged during the fighting, had been practically razed to the ground since the fighting had ended. The Arab authorities had refused the Jews access to the Wailing Wall, which was the remnant of the Temple.

77. Outside the walls, the Arabs held 38 per cent of Jerusalem's town planning area, as delimited by the British Mandatory Administration to provide scope for the city's growth and development. If the Arab inhabitants of the Walled City could be induced, by the offer of better housing facilities, to move of their own free will out of the congested quarters and settle in the free space outside the walls, then the Walled City could be converted into a site containing only Holy Places and religious foundations, consecrated to religious worship and pilgrimage by members of all faiths, under the aegis of the United Nations. Such a transformation would be a worthy object of United Nations initiative and care.

78. Pending any such far-reaching reform, the unique character of the Walled City should be kept in mind as a subject calling for special treatment. In any case, the Jewish claim with regard to access to the Wailing Wall and the restoration of the synagogues would have to be reserved.

79. The Government of Israel made no condition that a settlement of the status of the Holy Places in the Jewish part of Jerusalem should await a parallel settlement concerning those in Arab hands. For its own part, and as far as the Jewish part of Jerusalem was concerned, his delegation was submitting to the Committee a draft resolution (A/AC.31/L.42) referring to a draft agreement which would shortly be circulated.

The meeting rose at 1.15 p.m.

FORTY-FIFTH MEETING

Held at Lake Success, New York, on Friday, 25 November 1949, at 3 p.m.

Chairman: Mr. Nasrollah ENTEZAM (Iran).

Palestine (continued)

PROPOSALS FOR A PERMANENT INTERNATIONAL RÉGIME FOR THE JERUSALEM AREA AND FOR PROTECTION OF THE HOLY PLACES: REPORT OF THE UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE (A/973 AND A/973 ADD. 1) (continued)

1. Mr. CASTRO (El Salvador) noted that the various progress reports submitted by the Conciliation Commission (A/819, A/838, A/927 and A/992) taken together represented a complete report on the general problem of Palestine. They dealt specifically with the three outstanding issues: an international régime for Jerusalem, protection of the Holy Places and assistance to refugees, of whom the great majority were Arabs. In con-

nexion with the third issue, the delegation of El Salvador was prepared to vote in favour of all proposals for the effective implementation of the General Assembly's resolutions 194 (III) and 212 (III) to alleviate the deplorable conditions of those refugees and to permit their return to the areas in Palestine from which they had fled as a result of the war.

2. There had been a great deal of confusion concerning the establishment of an international régime for Jerusalem. The Assembly's resolutions on the subject had reflected that confusion by omissions and defects which had given rise to erroneous and unjustified interpretations. Yet both resolution 181 (II) of 29 November 1947 and resolution 194 (III) of 11 December 1948 were quite clear.

3. In the first resolution, the Assembly had explicitly decreed that the City of Jerusalem should come under a special international régime to be administered by the Trusteeship Council on behalf

¹ See *Official Records of the third session of the General Assembly, Part II, Ad Hoc Political Committee, 45th meeting.*