

UNITED NATIONS

**QUESTION OF AN INTERNATIONAL
REGIME FOR THE JERUSALEM
AREA AND PROTECTION
OF THE HOLY PLACES**

SPECIAL REPORT OF THE TRUSTEESHIP COUNCIL

GENERAL ASSEMBLY

OFFICIAL RECORDS: FIFTH SESSION

SUPPLEMENT No. 9 (A/1286)

Lake Success, New York

1950

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RESOLUTION ADOPTED BY THE TRUSTEESHIP COUNCIL AT ITS TENTH MEETING HELD ON 14 JUNE 1950

The Trusteeship Council,

Having received the request of the General Assembly concerning an international regime for the Jerusalem area and the protection of the Holy Places contained in resolution 303 (IV) of 9 December 1949,

Having approved, on 4 April 1950, a Statute for the City of Jerusalem¹ in accordance with that resolution,

Having entrusted to its President the mission of transmitting to the Governments of Israel and the Hashimite Kingdom of the Jordan the text of the Statute and of requesting their full co-operation,

Having received no reply from the Government of the Hashimite Kingdom of the Jordan and an expression of views from the Government of Israel as a result of which it appears that neither Government is prepared to collaborate in the implementation of the Statute as approved by the Trusteeship Council,

Decides to submit to the General Assembly the attached report, together with copies of the Statute as approved by the Council, the reports of President Garreau to the members of the Council and the reply of the Government of Israel dated 26 May 1950.

SPECIAL REPORT OF THE TRUSTEESHIP COUNCIL TO THE GENERAL ASSEMBLY

1. The General Assembly, in restating at its fourth regular session² its previous intention³ that Jerusalem should be placed under a permanent international regime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem, requested the Trusteeship Council to complete the preparation of the Statute of Jerusalem,⁴ omitting the now inapplicable provisions, and, without prejudice to the fundamental principles of the international regime for Jerusalem previously set forth by the General Assembly, to introduce into the Statute amendments in the direction of its greater democratization. It requested the Council also to approve the Statute and to proceed immediately with its implementation.

2. In order to consider its responsibilities in respect of this decision of the General Assembly, the Trusteeship Council held its second special session from 8 to 20 December 1949. At the fourth meeting of this session, the Council granted requests of the Governments of Egypt, Lebanon and Syria that their representatives should be allowed to participate in its deliberations, in an advisory capacity and without the right to vote. Discussion of the method by which the Council should undertake its responsibilities in the matter proceeded until, at the seventh meeting, it resolved⁵ to entrust the President with the task of preparing a working paper on the Statute in accordance with the resolution of the General Assembly, and to submit it to the Council at the beginning of its sixth regular session. The Council invited the members of the Council, if they so desired, and similarly the Governments whose representatives participated without vote in its deliberations, to send to the President written suggestions or observations on the provisions of the draft Statute. The Council further authorized the President to ascertain the views of any other interested Governments, institutions or organizations.

3. At the eighth meeting of the special session, the Council adopted a further resolution⁶ in which it expressed the opinion that the Government of Israel, in removing to Jerusalem certain of its ministries and central departments, was likely to render more difficult the implementation of the Statute. It requested the President (a) to invite the Government of Israel to submit a written statement on the matters involved, to revoke the measures which it had taken, and to abstain from any action liable to hinder the implementation of the General Assembly resolution, and (b) to keep closely in touch with the developments in Jerusalem while the Council was not in session.

4. At the ninth meeting of its sixth session, which began in Geneva on 19 January 1950, the Council, in resuming consideration of the question of Jerusalem, heard the report⁷ of its President, which contained his suggestions concerning the interpretation to be given to the General Assembly resolution in making the necessary changes in the draft Statute. The President's report included communications which he had received from the permanent representative of Egypt to the United Nations, and from representatives of churches and qualified organizations.

5. At the same meeting, the Council decided⁸ to issue a general invitation to all Governments, institutions or organizations concerned, stating that it would be prepared to hear their views and testimony, if they so wished, on the question of the international regime for the Jerusalem area and the protection of the Holy Places. Subsequently, at the 18th meeting, the Council granted oral hearings, at their request, to representatives of the Greek Orthodox Patriarch of Jerusalem and all Palestine and the American Christian Palestine Committee; and at the 20th meeting it similarly granted hearings to representatives of the Armenian Patriarchate of Jerusalem and the Commission of the Churches on International Affairs.

¹ See annex II, page 19.

² Resolution 303 (IV) of 3 December 1949.

³ Resolution 181 (II) of 29 November 1947.

⁴ T/118/Rev.2 dated 21 April 1948.

⁵ T/426.

⁶ T/427.

⁷ T/457 (annex I, page 3).

⁸ T/PV.211.

6. At the 20th meeting, on 10 February 1950, the Council decided⁹ to proceed immediately with the completion of the draft Statute, and at the 23rd meeting it began the first reading of the draft which it had prepared in April 1948.

7. At the 21st meeting, the Council adopted a resolution¹⁰ by which it took into consideration the fact that the two States at present occupying the area and City of Jerusalem had not so far officially acquainted the Council with their views on the task assigned to it by the General Assembly. It decided to invite the State of Israel and the Hashimite Kingdom of the Jordan to appoint qualified representatives to attend the Council for the purpose of expounding the views of their respective Governments. At the 25th and 26th meetings respectively, the President informed the Trusteeship Council that the Government of the Hashimite Kingdom of the Jordan and the Government of Israel had accepted the invitations and, at its 28th meeting on 20 February 1950, the Council heard the representatives of these two States. The representative of the Hashimite Kingdom of the Jordan stated that his Government desired to reiterate the point of view it had previously expressed, and that it would not discuss any plan for the internationalization of Jerusalem. The representative of Israel stated that, while opposed to the internationalization of the Jerusalem area proposed in the draft Statute, his Government remained willing to accept the principle of direct United Nations responsibility for the Holy Places, to participate in discussions on the form and content of a Statute for the Holy Places, and to accept binding declarations or agreements ensuring religious freedom and full liberty for the pursuit of religious education and the protection of religious institutions.

8. At the 35th meeting on 24 February 1950, the Council completed the first reading of the Statute and, at the 38th meeting, it began the second reading. During the second reading, members of the Council submitted amendments, and the text of each article was provisionally approved.

9. The representatives of the Armenian Patriarchate of Jerusalem and the Greek Orthodox Patriarchate of Jerusalem and all Palestine took part, without the right to vote, in the discussion on the drafting of the Statute, whenever the Council decided to invite either one of them. At the 39th meeting, the Council heard the Minister of Greece to Switzerland who presented observations on behalf of his Government.

10. At the 72nd meeting, the Council completed the second reading, and at the 75th meeting it began the third reading.

11. At the 75th meeting, the representative of the Hashimite Kingdom of the Jordan, before opening the discussion on the final text of the draft Statute, stated that his Government, while opposing the internationalization of Jerusalem, was not opposed to the United Nations assuring itself from time to time as to the protection of the Holy Places and the freedom of access to those Places under the safeguard achieved by control of his Government.

12. The Council approved the Statute at the 81st meeting, on 4 April 1950. At the same meeting it adopted a resolution¹¹ requesting the President to transmit the text to the Governments of the two States at present occupying the area and City of Jerusalem, to request from the two Governments their full co-operation, and to report on these matters to the Trusteeship Council in the course of its seventh regular session.

13. The Council resumed consideration of the question during its seventh session, which began at Lake Success on 1 June 1950. At the second meeting, M. Roger Garreau, who had been President of the Council during its fifth and sixth sessions, presented his report¹² on the mission which the Council had entrusted to him. He stated that in reply to his invitation to the two Governments to meet him in order to discuss the conditions for the implementation of his task, he had up to that time received no reply from the Hashimite Kingdom of the Jordan, and that he had therefore been able to undertake consultations only with the Government of Israel. The latter Government had communicated certain new proposals which the President transmitted to the Council as an annex to his report, which proposals the Council did not discuss. The President concluded that the results of his mission had proved disappointing and that the implementation of the Statute would seem to be seriously compromised under present conditions.

14. At the tenth meeting on 14 June 1950, the Council adopted a resolution in which it decided to submit to the General Assembly the present report, together with copies of the Statute as approved by the Council, the reports of President Garreau to the Council, and the reply of the Government of Israel dated 26 May 1950.¹³

⁹ T/467.

¹⁰ T/469.

¹¹ T/564.

¹² T/681 (annex III, page 28).

¹³ See enclosure to annex III, page 28.

Annex I

REPORT BY THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

Suggestions submitted by the President of the Trusteeship Council, M. Roger Garreau, concerning the interpretation to be given to General Assembly resolution 303 (IV) of 9 December 1949 in making the necessary changes in the draft Statute drawn up by the Trusteeship Council in April 1948

1. The territory of Jerusalem would be constituted as a *corpus separatum* with the boundaries indicated in the General Assembly's resolutions of 19 November 1947 and 9 December 1949, and placed under a permanent international regime ensuring the demilitarization and neutralization of this zone, free access to the Holy Places, full freedom of movement throughout the territory and the integrity of, and respect for, the Holy Places and religious buildings and sites.

2. The territory would also be constituted an economic free zone and the authorities would have no power to collect any duty on goods or merchandise entering or leaving it. Goods consigned to, or coming directly from, Jerusalem and passing through Israeli or Jordanian territories in Palestine would be exempt from all import and export duties and could only be subject to a possible transit charge.

The Governor of the Holy Places would agree with the State of Israel and the Hashimite Kingdom of the Jordan on all necessary measures to ensure the smooth working of the special economic regime in the interests of all parties concerned.

3. The territory of Jerusalem would be divided into three parts:

(a) The Israeli zone under the authority and administration of the State of Israel.

(b) The Jordanian zone under the authority and administration of the Hashimite Kingdom of the Jordan.

(c) The "International City" would be placed under the collective sovereignty of the United Nations and administered, under the supervision and responsibility of the Trusteeship Council, by a Governor of the Holy Places appointed by the Council.

Practically the whole of the New City, together with the station and the railway from Jerusalem to Tel-Aviv, would remain under the sovereignty of Israel.

The Arab quarters of the Old City, together with the Haram-el-Sherif, the Wadi-el-Joz and Bab-el-Zahira sections, the American colony, the whole of the Jericho road, the Nablus road to the north of Sheik Jarrah and the Hebron road to the south of Bethlehem would remain under the sovereignty of the Hashimite Kingdom of the Jordan.

The International City consisting of land taken in almost equal parts from the occupation zones defined

by the Armistice Agreement between Israel and the Hashimite Kingdom of the Jordan, would include all the Holy Places covered by the *status quo* of 1757.

4. The Governor of the Holy Places would ensure that the provisions of the Statute relating to the demilitarization and neutralization of the territory of Jerusalem, to the free economic regime, to freedom of access to the Holy Places, to full freedom of movement throughout the territory, and to the integrity of, and respect for, the Holy Places and religious buildings and sites were duly observed by the State of Israel and the Hashimite Kingdom of the Jordan in their respective zones of administration.

5. Until such time as the two States have established their common frontier across the territory of Jerusalem, where they are not separated by the boundaries of the International City, a provisional line of demarcation would be drawn by agreement between the two States and, if necessary, with the assistance of the Governor of the Holy Places.

The Governor of the Holy Places would intervene, if necessary, to settle any dispute arising between the authorities of the two neighbouring States in the territory of Jerusalem.

6. The inhabitants of the International City could either retain their present nationality or opt for citizenship of the International City. They would elect, by universal suffrage, a municipal council whose composition would be determined in such a manner as to ensure equitable representation of the various religions, and which would administer the International City under the supervision of the Governor of the Holy Places.

The Governor of the Holy Places would accredit representatives to the State of Israel and to the Hashimite Kingdom of the Jordan to ensure the protection in those States of the interests of the International City and its citizens.

7. The Governor of the Holy Places would be assisted by a General Advisory Council whose composition would have to be determined, and whose main function would be to ensure good relations between the various religions and to settle religious disputes. He would also be assisted by three Commissions for the Holy Places, religious institutions and sites, responsible for ensuring the good order and maintenance of the Holy Places with which they were respectively concerned, and the integrity of, and respect for, acquired rights in respect of religious institutions. Any dispute between the Commissions which could not be settled by direct agreement between the parties concerned, would be brought before the General Advisory Council.

8. The Governor of the Holy Places would also exercise, on behalf of the United Nations, the right

to protect the Holy Places, religious institutions and sites situated outside the Holy City in any part of Palestine, in accordance with the provisions of article 37 of the draft Statute prepared by the Trusteeship Council in April 1948.

9. In the exercise of his powers in respect of the Holy Places, religious institutions and sites, the Governor of the Holy Places would ensure, in the International City of Jerusalem, the integrity of, and respect for, existing rights, which could not be subject to either supervision or impairment. He would also ensure that such rights were similarly respected throughout the *corpus separatum*, under conditions to be fixed by agreement between the State of Israel and the Hashimite Kingdom of the Jordan.

10. The Governor of the Holy Places would direct the external affairs of the International City.

11. The Governor of the Holy Places would have at his disposal an international police force recruited by him without distinction as to nationality.

12. Justice in the International City would be administered by a Court of First Instance and by a Supreme Court. The Chief Justice of the Supreme Court would be appointed by the Trusteeship Council and would in turn appoint the other officers of both Courts by agreement with the Governor of the Holy Places.

13. The International City would fly the flag of the United Nations.

14. The Statute would remain in force for a period of ten years, in the first instance, unless the Trusteeship Council thought it necessary to review its provisions at an earlier date, in which case the Council would amend those provisions as it thought fit.

On the expiry of the ten-year period referred to in the preceding paragraph, the whole of the Statute would be reviewed by the Trusteeship Council in the light of the experience acquired during the application of its provisions. The population of the International City would then be entitled to make known, by referendum, their views on possible changes in the regime of the City. The Trusteeship Council would in due course prescribe the procedure for carrying out the referendum.

Enclosures

A. COMMUNICATIONS FROM MEMBER GOVERNMENTS

1. LETTER DATED 4 JANUARY 1950 FROM THE PERMANENT REPRESENTATIVE OF EGYPT TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

With reference to the resolution adopted by the Trusteeship Council at its seventh meeting on Monday, 19 December 1949, inviting the States participating without vote in the deliberations on the question of Jerusalem to present their views on the provisions of the draft Statute, I have the honour to transmit to you herewith the suggestions and observations formulated by the Arab League Committee for Palestine and endorsed by the Egyptian Government.

(1) *Balance of population*: To maintain the balance of population between the two demographic elements as at 29 November 1947, the population residing in Jerusalem should be frozen as at that date, the inhabitants then possessing Palestine nationality to be regarded as Jerusalem citizens enjoying full rights of citizenship. Those not so qualified, and those who have established themselves at Jerusalem since 29 November 1947, would be considered merely as residents.

(2) *Transfer of lands*: With the object of ensuring the welfare of all inhabitants of the Jerusalem zone, an appropriate clause should be included in the Statute to maintain the proportion of urban and rural property between the two elements of the population at its figure on 29 November 1947.

(3) *The Jerusalem zone's quota of Palestine property and real estate*: The Statute of Jerusalem should embody the zone's right to its due quota of the property of the former Palestinian administration, such as monetary reserves and cover for currency notes, etc., and of the real estate and public utilities of the whole of Palestine.

(4) *Waqf property*: The Statute of Jerusalem should provide safeguards for Waqf property, wherever located, which is used by religious, humanitarian and cultural institutions in the Jerusalem zone, by ensuring its unhindered exploitation and the enjoyment by the beneficiaries of the income derived from it.

(Signed) M. FAWZI

B. COMMUNICATIONS FROM CHURCHES AND QUALIFIED ORGANIZATIONS

1. LETTER DATED 31 DECEMBER 1949 FROM THE GREEK ORTHODOX ARCHBISHOP IN NORTH AND SOUTH AMERICA TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

In accordance with the resolution adopted by the Trusteeship Council on 19 December 1949, I have the honour to submit herewith for your and the Council's consideration the general outline of the views held by the Orthodox Patriarchate of Jerusalem on the matter of the future of the Holy City and its administration under the resolution of 9 December 1949 of the fourth General Assembly.

In the formulation of these views, as well as in its general attitude towards the question under consideration, the Orthodox Patriarchate of Jerusalem is guided by a paramount desire, shared, we believe, by all Christians, to preserve the peace of Jerusalem and to safeguard the Holy City from any developments which might jeopardize the security of the places of worship or cause troubles or even bloodshed in this city which has already suffered so much. With this in mind, the following points are made, which, at this stage, are necessarily of a more general character, while specific suggestions may come from the Orthodox Patriarchate of Jerusalem at a later date.

1. The fundamental principle adhered to until today with regard to the Holy Places, religious buildings and sites in Jerusalem and the surrounding area has been the maintenance of the existing rights. It is deemed essential further to adhere to this principle of

the *status quo* and to find the way to express it in an unambiguous form, thus laying the basis for the international status of the Holy City.

2. On the basis of the principle accepted with regard to the *status quo*, as above, a provision should be made for the maintenance of the ethnological and linguistic peculiarity of any Church and for the preservation of the existing character of the Cloisters belonging to any denomination.

3. It would, furthermore, be necessary to include a provision in the Statute to the effect that the real and other property of the Church be exempt from taxes in any form and that they cannot be appropriated for any reason.

4. In addition, another provision should be included to the effect that no interference of civilian authorities or laymen is to be permitted in the administration of this property, according to the existing ecclesiastical law and the rules of the Church.

5. The Patriarch or head of any denomination, when selected according to the ecclesiastical rules, should *eo ipso* be considered as the representative of his denomination with all powers and privileges appertaining to his office, and should not need a separate formal recognition by the Governor of the City or any other civilian authority.

6. It might further be useful to recognize these Patriarchates or denominations as having a legal personality.

7. The education offered presently by any denomination and the jurisdiction exercised by the heads of these denominations should continue in its present form.

8. The free appointment of clergymen should be secured, taking into account the ethnological and linguistic peculiarity of the Patriarchate or denomination concerned. Provision should be made for the regulation of their status as citizens of the City.

9. With regard to the person or persons to whom the administration of the Holy City will be entrusted, provision will be made, no doubt, to ensure that they will be selected or appointed from among persons whose impartiality is beyond question. An additional guarantee, however, which the Orthodox Patriarchate is ready to suggest, is that these persons should not belong to any of the denominations having direct interest in the keeping of the Holy Places. The same considerations would apply to any judicial body eventually to be established with jurisdiction over disputes involving the Holy Places.

The above points do not represent a systematic and detailed layout for a statute of the Holy City and the surrounding area. They constitute a number of remarks of a general character and the Orthodox Patriarchate of Jerusalem remains, therefore, at the disposal of the Trusteeship Council and of the United Nations in general, with a view to presenting, if necessary, at a later stage its views in oral or written form in detail.

In concluding, I wish to avail myself of this opportunity to assure you, Mr. President, and the other

honourable members of the Council that the Greek Orthodox Patriarchate of Jerusalem and the Orthodox Christians in general pray to God, that He may bless your work and guide your decisions towards establishing peace in the Holy City.

(Signed) Archbishop MICHAEL

2. CABLEGRAM DATED 18 JANUARY 1950 FROM THE GREEK PATRIARCH OF JERUSALEM TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

Archbishop of Thyateira Germanos Attorney and representative of Jerusalem Patriarchate will appear before your Council to explain rights privileges our Patriarchate--Patriarch TIMOTHEUS.

3. LETTER DATED 11 JANUARY 1950 FROM THE PRIMATE OF THE ARMENIAN APOSTOLIC ORTHODOX CHURCH OF AMERICA TO MR. RALPH BUNCHE, DIRECTOR OF THE TRUSTEESHIP DIVISION, AND ATTACHED MEMORANDUM

I have been entrusted by the locum tenens of the Armenian Patriarchate of Jerusalem with the duty of presenting the views and the position of the said Patriarchate concerning the future status of Jerusalem.

The enclosed memorandum has therefore been prepared to be submitted to the Trusteeship Council of the United Nations Organization, which will be sitting in Geneva on the 19th of this month to prepare the statute of Jerusalem governing the Holy City, when eventually internationalized.

It is my request, therefore, that you be good enough to transmit this memorandum to the above-mentioned Trusteeship Council for their consideration during their forthcoming session.

(Signed) Bishop Tiran NERSOYAN

A memorandum on the rights of the Armenian Church in the Holy Places, on the proposed internationalization of Jerusalem, and on the status of the Holy Places, presented by the Most Rev. Bishop Tiran Nersoyan, Primate of the Armenian Apostolic Orthodox Church of America, on behalf of the Armenian Patriarchate of Jerusalem, to the Trusteeship Council of the United Nations Organization, for consideration at its forthcoming session to be convened to draw up the Statute of Jerusalem.

a Historical note

From the early centuries of the history of the Christian Church, Armenians have been established in Jerusalem and have used and cared for the Holy Places, together with other Christian communities, themselves being from one of the countries of the Near East. Through the many and turbulent vicissitudes which the Holy Land has endured under many rules and regimes, the Armenian Church has maintained her position in Palestine, and Armenian monks have led a life of prayer and worship on and near the Holy Sites. In the sixth century these monks formed their separate national groups. Thus, in the seventh century, the Armenian Church had a great many large and small monastic establishments in different parts of the Holy Land, supported by the gifts of the Armenian

princes sent from the mother country. Archeological remains found in Jerusalem attest to these flourishing establishments under the jurisdiction of their own bishop. During the Arabic reign in the Holy Land the Armenian bishopric in Jerusalem has been recognized and maintained as a national community, together with other church groups. During the period of the Crusades the Armenians have continued to live in Jerusalem on friendly terms with the Latin princes and the Roman Church. With the conquest of Saladdin, the position of Armenians was enhanced, their head was known as Patriarch and their rights and privileges were recognized by the sultans of the Arab dynasty, as attested by historians of the time. In the thirteenth century we find the Armenians holding a prominent position in the Holy Places. At that time, the Cathedral of St. James was the seat of the Armenian Patriarchate, exercising custodianship over the Holy Places in common with other communities. After the advent of Memlouks of Egypt, Armenians continued to maintain their position in the Holy City and in A.D. 1311 the Memloulk Sultan confirmed formally the established rights of the Armenian Church on the holy shrines. After the Memlouks, when the Ottomans occupied Jerusalem (A.D. 1517), Sultan Selim in his turn confirmed by edict the same rights, which have been preserved and maintained by the Armenian Church in the Holy Places up to the present time. In A.D. 1720 the Armenians participated in an equal share with the Greek and the Latin Patriarchates in the work of restoration of the Church of the Holy Sepulchre which they have continued to use equally with them ever since. After the great fire of the Church of the Holy Sepulchre, in A.D. 1808, bitter and prolonged dissensions arose among the three Patriarchates, and although Sultan Mahmoud II adjudicated between them in A.D. 1812, the disputes did not subside until A.D. 1853, when the *status quo ante* was finally established, regulating the determination of the rights of the three principal communities and others in the Holy Places, and making for peaceful relationship between the three communities.

Necessity of continuing the maintenance of the status quo

The Armenian Church, as represented by the Armenian Patriarchate of Jerusalem, firmly believes that it is absolutely necessary to maintain the principle of the *status quo* in the Statute to be drawn by the Trusteeship Council of the United Nations for eventual adoption by the authorities of the United Nations Organization for the care and responsibility over the Holy Places. During the British Mandate over Palestine this principle was judiciously maintained, and all the interested communities enjoyed their rights and privileges peacefully to the benefit of all concerned. Any new and radical disposition concerning the maintenance and the use of the Holy Places would undoubtedly re-create among the Christian communities of the Holy Land dissensions and disputes, which for many years have been gradually eliminated by the continued application of the *status quo*, resulting in harmonious agreements and accords. We believe that rights and privileges which have prevailed for over a thousand years should be respected to the extent to which they are exercised at present. Countless generations of the members of the Churches sharing the use

and the responsibilities in the Holy Places have made heavy sacrifices in order to be able to worship their Lord in accordance with their own religious rite on the very places which have been hallowed by the acts of His earthly life; any disregard of this fact would result in grave injustice. Therefore, we believe that the centuries-old principle of the *status quo* is, and should continue to be, the sole legal basis for the disposition of the Holy Places provided in the future status of Jerusalem. The *status quo* should further be the guiding principle in any adjustments and accommodations in the use of the Holy Places which may be made in the future owing to the eventual structural repairs and alterations in the various edifices on the Holy Sites.

Desirability and justice of the eventual internationalization of Jerusalem

The Armenian Church, through the Armenian Patriarchate of Jerusalem, hereby voices its support, together with other churches concerned and other nations, of the resolution of the General Assembly of the United Nations in favour of the internationalization of Jerusalem. Considering the international character of the Holy Places in Jerusalem, and its sacredness to the three great religions of the world, it is wholly appropriate that the Holy City should not be ruled by any one nation, or should not be under any one regime. It is requisite that free access to and use of the Holy Places should be safeguarded by an international authority. It is further appropriate that the international status of Jerusalem should be a symbol of international amity and harmony befitting a city of religious shrines.

Armenian Patriarchate entitled to a place on the administrative council

In this connexion, the Armenian Patriarchate of Jerusalem wishes to state that in view of its past and present position in Jerusalem, it is entitled to have its seat, along with other Patriarchates or communities in Jerusalem, in any future council or governing body which may be formed and established in the Holy City.

(Signed) Bishop Tiran NERSOYAN

4. CABLEGRAM DATED 29 JANUARY 1950 FROM THE LOCUM TENENS OF THE ARMENIAN PATRIARCHATE OF JERUSALEM TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

We have delegated Bishop Tiran of New York as the authorized representative of our Patriarchates See of Jerusalem—locum tenens, Armenians Patriarchate Jerusalem.

5. LETTER DATED 3 JANUARY 1950 FROM THE DIRECTOR OF THE COMMISSION OF THE CHURCHES ON INTERNATIONAL AFFAIRS TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL, AND TWO ATTACHED MEMORANDA

As director of the Commission of the Churches on International Affairs, I submit to you herewith two documents which bear upon the work of the Trusteeship Council in giving effect to the General Assembly action on the internationalization of Jerusalem. The Churches' Commission is jointly constituted by and

represents the World Council of Churches and the International Missionary Council.

The first document, entitled "The protection of religious interests and activities in Palestine", has been formally endorsed by our Commission's Executive Committee. This memorandum was transmitted to the United Nations Palestine Conciliation Commission at Lausanne last spring in response to an invitation by the General Assembly and was subsequently communicated to all delegates serving on the *Ad Hoc* Political Committee at the General Assembly's fourth session. It stresses particularly the necessity of protecting the *contemporaneous* interests and activities of all religious faiths. We respectfully submit that the three minimum conditions advanced on pages 16-18 of the memorandum be explicitly met in the Statute by which Jerusalem is to be internationally administered.

The second document is a memorandum on "The future of Jerusalem", prepared by the Archbishop of Canterbury and supported by leaders in the Church of England. Since the proposals in this memorandum were compiled only a short time before the General Assembly's debate on Jerusalem, the Churches' Commission had no opportunity to review them or to act upon them. They should therefore be construed as representing the judgment of one segment within the Commission's constituency. In submitting to you the memorandum by the Archbishop of Canterbury, I fully realize that its provisions do not comply with the terms which the action of the General Assembly requires. However, I trust that you will not consider inappropriate my view that, during the work of drafting the Statute for Jerusalem and seeking measures for its implementation, variant plans or elements thereof may profitably receive consideration.

(Signed) O. Frederick NOLDE

The protection of religious interests and activities in Palestine

The *Ad Hoc* Political Committee of the third session of the General Assembly, part II, in its report on the "Application of Israel for Admission to Membership in the United Nations" took note of requests by representatives of various Governments that the United Nations Conciliation Commission should, "when studying the question of the internationalization of Jerusalem and the problem of the protection of the Holy Places and free access thereto", take into account the views of the Holy See, the Orthodox Patriarchate, Moslem religious authorities and the Commission of the Churches on International Affairs (United Nations document A/855, 10 May 1949). The report of the *Ad Hoc* Political Committee was adopted by the General Assembly on 11 May 1949.

In pursuit of the opportunity thus afforded, the Commission of the Churches on International Affairs submits this memorandum to the Palestine Conciliation Commission established by the United Nations General Assembly at its third session in Paris.

The Commission of the Churches on International Affairs has been formally constituted as the joint agency of the World Council of Churches and the International Missionary Council. The World Council

of Churches includes in its membership one hundred and fifty-five churches in forty-four lands; its offices are in Geneva, New York and London. The International Missionary Council is composed of fifty-two national organizations, conferences and committees in sixty-eight countries and territories; its offices are in New York and London.

I. Manifest concern about settlements in Palestine as they bear upon religious interests and activities

Numerous expressions of opinion by segments of the constituency represented in the Commission of the Churches on International Affairs testify to the concern which Christians entertain about settlements in Palestine and particularly in Jerusalem. Some of these have been in the form of statements by recognized Christian leaders, acting in their personal or representative capacity. Others have been incorporated in formal resolutions by member bodies of the World Council of Churches or the International Missionary Council.

A few illustrations of such statements and resolutions are here presented to emphasize the importance which is attached to the Jerusalem settlement and to indicate the nature of the political arrangements which many believe to be imperative.

1. Excerpt from a letter (April 1948) to the Patriarch of Jerusalem, signed by the five Presidents of the World Council of Churches (Dr. Marc Boegner, President of the *Fédération Protestante*; Dr. Erling Eidem, Archbishop of Upsala; Dr. Geoffrey Fisher, Archbishop of Canterbury; Dr. S. Germanos, Archbishop of Thyateira; Dr. John R. Mott, United States of America.

"Your Beatitude may rest assured that we shall constantly bear in mind, and seek to forward the following aims:

"(1). We desire that Christian people throughout the world should continue in prayer for the peace of the Holy Land, and especially for their fellow Christians.

"(2). We desire that the land of our Lord's earthly ministry shall be a land where men can live in peace and quietness and where the status of the Holy Places shall be secured and access to them freely maintained.

"(3). We desire to see the human rights and liberties of all men in Palestine guaranteed, and fully embodied in whatever settlement of provisions are eventually effective, and especially the right to worship God according to conscience, and to teach and preach the faith in which they believe.

"Your Beatitude is well aware that the political settlement of this matter rests with the United Nations. The attitude of Christian people to that Organization may be deeply affected by the action resolved upon. We shall take every step open to us to ensure that the decisions of the United Nations, or of other authorities concerned, may agree with these ends."

2. Excerpt from a statement (April 1948) submitted to the Honorable Warren R. Austin and approved by the Executive Committee of the Federal Council of the Churches of Christ in America

"Christian people are profoundly disturbed at the prospect of an increase of violent warfare in Palestine

upon the withdrawal of British troops on 15 May. Our concern for the lives of all those involved—Christians, Moslems and Jews—and our conviction that adjustment of differences should be sought by peaceful methods lead us to urge with all our strength that the present effort of the United Nations to arrange a truce be supported by the responsible leaders on both sides.

"We have an especially deep concern for the Holy City of Jerusalem, sacred around the world to those of all three faiths, and containing places whose destruction we cannot accept as permissible. Under the partition proposal of last fall Jerusalem was to be a trust territory. It is obviously a part of the trust territory under the recent trusteeship proposal. Surely it should have a trust status under any arrangement, and it should be given now the character of an 'open city'."

3. Resolution (dated 27 April 1949) by the Near East Christian Council, a constituent member of the International Missionary Council (the Near East Christian Council is a body which unites the Protestant missions and churches of the following areas: Arabia, Balkans, Egypt, Ethiopia, Iran, Iraq, Lebanon, North Africa, Palestine, Sudan, Syria, Jordan and Turkey)

"The Near East Christian Council unanimously urges you to transmit to the highest authorities its belief that it is essential for the preservation of peace:

"1. That the greater Jerusalem area be placed under United Nations administration so as to constitute a centre of religious freedom for all faiths, and

"2. That speedy provision be made for the rehabilitation of the Palestine refugees, including where possible their return to their former homes and in other cases their resettlement with full compensation for property lost."

4. An appeal to the United Nations on 6 May 1949 by the Ecumenical Patriarch

"It is with a vivid interest that the Ecumenical Patriarch is following the sincere endeavours made by the United Nations during the negotiations held for the protection of the Holy Places.

"The Ecumenical Patriarch believes that the only appropriate solution of the problem is the application of an international status, under the guardianship of the United Nations, over the whole City of Jerusalem and the sacred shrines of Palestine as well."

II. *Conditions to be met in the Palestine settlements in order that religious interests and activities may be appropriately safeguarded*

From the various statements made by different parts of our world-wide constituency, we draw the basic conditions which we believe must be met by the political arrangements under which Palestine, and more particularly Jerusalem, shall be governed. In citing these conditions, we are confident that they reflect the view of our constituency as to the minimum requirements to be observed and that they will command the active support of the member churches and councils in the

World Council of Churches and the International Missionary Council.

1. Human rights and fundamental freedoms, and, particularly, full religious liberty must be safeguarded for all without distinction as to race, sex, language or religion

When Governments are, to any considerable extent, animated by special religious conviction and committed to the predominant protection of its expression, there exists the danger of discrimination against those who hold other convictions and desire to give expression to them. This danger is present in all Palestine and is most acute in areas where historic religious monuments are concentrated and where current religious work is most actively pursued by adherents of a faith differing from that represented in the Government.

In order that the religious interests of all men and of the religious communities with which they are affiliated—Christian, Jewish, Moslem—may be adequately protected, arrangements for Jerusalem, and in fact, for all Palestine should include specific provisions to safeguard human rights and fundamental freedoms. The religious issues at stake call for the full application of these articles in the Universal Declaration of Human Rights which bear on religious liberty, particularly articles 18 and 19:

"Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

"Article 19. Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

The presence in Palestine of adherents of three faiths requires explicit safeguards for observing the traditional right of religious freedom, including freedom to extend one's faith by processes of persuasion and the appeal to reason and conscience.

2. The protection of Holy Places, religious buildings and sites in Palestine and free access thereto should be recognized as a matter of international responsibility

Our primary concern is with people, not places, and therefore we have stressed first of all the rights and freedoms of all men. Nevertheless, we cannot ignore buildings and sites which are monuments of sacred events in the past and which stand indeed as Holy Places for people today and for generations to follow. Their combined significance transcends any single faith or nationality. Their protection and the opportunity of free access to them should be accepted as an international responsibility.

We do not presume to define the political mechanisms by which this international responsibility shall be fulfilled. We do, however, express the strong conviction that artificial separation of historic religious sites from the community in which they are located—particularly

in the Jerusalem areas where such sites are numerous —would be an inadequate method of exercising international responsibility. Whatever plan is devised it should reckon with the current life of the three faiths represented in the population as well as with the historic interest which a large part of the world professes. This will require, we believe, political arrangements wherein measures for the protection and world-wide use of the Holy Places are integrated with the guarantee of human rights and freedoms for all inhabitants.

3. All church-owned and mission-owned properties in Palestine that have been occupied by either Arabs or Jews should be returned to their owners

During the period of disturbance in Palestine, numerous ecclesiastical properties have been seized for governmental or military purposes. Practically all the reported violations have occurred in areas occupied by Jewish authorities.

At the third session of the United Nations General Assembly in Paris, the Government of Israel submitted a memorandum to a number of Member States wherein it stated:

"One matter under discussion with certain church authorities concerns properties which were formerly requisitioned by the British military forces and are now in the occupation of the Israeli Army. It has been made clear that these properties will be returned to their rightful owners as soon as the military situation makes it possible for them to be derequisitioned. There is not, and there never has been, the slightest intention to expropriate church properties."

A similar commitment was subsequently made to various Christian leaders, including officials in the World Council of Churches and the International Missionary Council.

We respectfully submit that the Palestine Conciliation Commission should establish the principle that all ecclesiastical properties in Palestine that have been occupied by either Arabs or Jews should be returned to their owners; and further, should take appropriate steps to see to it that the property claims are promptly and justly settled.

In advancing the above minimum conditions for effecting a settlement in Palestine which will be adequate to protect religious interest and activities, we disclaim competence as to the specific political arrangements whereby they can satisfactorily be met. At the same time, we believe that the political arrangements can be designed to comply with these requirements and that their acceptability must be appraised by the extent of such compliance.

Submitted by:

Kenneth G. GRUBB
Chairman

O. Frederick NOLDE
Director

May 1949

ADDENDUM

An additional illustration may be cited in connexion with those listed under section I, *Manifest concern*

about settlements in Palestine as they bear upon religious interests and activities, page 7.

7. Extract from the minutes of a meeting of the Near and Middle East Committee of the Conference of British Missionary Societies, Friday, 4 March 1949

"It was proposed by the Rev. Dudley Dixon, seconded by the Right Rev. Bishop L. H. Gwynne and *Resolved* that:

"The Committee recommends to the Standing Committee that every possible action should be taken by the British Council of Churches and the Churches Commission on International Affairs to secure by negotiation with the Government and United Nations that:

"1. Jerusalem should be preserved as an international zone.

"2. There should be guarantees from the Israeli Government that they will uphold the Declaration of Human Rights.

"3. That negotiations should be continued which would lead to the return of church properties now in the hands of the Israeli Government."

The future of Jerusalem

Private memorandum by the Archbishop of Canterbury
31 October 1949

I. *The present plan*: The proposal at present before the United Nations is that of the Conciliation Commission, which divides the area which is to be under international control into two municipal zones, one Jewish and one Arab. It is proposed that the demarcation line between the two zones shall be the present armistice line, without prejudice to the establishment of a final definitive line at a later stage.

The proposal is open to very serious criticisms as follows:

(a) The essential thing is that a settlement should be made now which can be upheld as final and binding. But a demarcation line between zones within the international enclave establishes an abiding element of uncertainty and friction. The present armistice line bears the marks of its derivation from military operations and is not the product of reasoned thought. For many reasons it is unsatisfactory. But if it is declared that it may be adjusted later, at once an element of uncertainty and jockeying for position is introduced which must cause jealousy and friction.

(b) Whether, as is most likely, the demarcation line remains unaltered for an indefinite period or whether it is adjusted, the fact will remain that there is an artificial boundary separating the two zones across which Jews and Arabs will confront one another. Even if the international control were moderately effective, it would not allay Arab fears of Jewish designs upon the Old City, while to those Jews who are determined to possess themselves of the Old City the sight of it just beyond their zone across an artificial line would be a constant irritant.

(c) Even moderately effective control would be possible only if the plan had the real goodwill of Jews and Arabs; but that goodwill is not to be expected.

The plan is not welcome to the Arabs and has already been rejected outright by spokesmen for the Israeli Government who claim for the Israeli State the large Jewish population resident in the New City.

(d) Without such goodwill and full co-operation by Jew and Arab, the position of the international authority responsible for the enclave would be certainly difficult and in all probability would become impossible. Prevention of breaches of the peace along the artificial boundary line would be a constant worry. The detection of offenders against the peace, who could find refuge among their own people, would prove as exasperatingly difficult as it has proved in the past. Extremists on either side would escape detection and punishment. It is hard to believe that the international authorities could exercise a really efficient control. If, by the employment of sufficient forces, they were able to do so, they would be sitting permanently on a volcano: and past bitter experience goes to show that from time to time the volcano would erupt.

For such reasons it ought to be said that a plan of municipal zones separated by a demarcation line is unwise in itself and since it has not the goodwill necessary to make it in any degree workable, is unworkable also.

II. *A new start*: It is urgently necessary to discover a new plan which may break the present deadlock, which may be presented to Jew and Arab as a fair and reasonable settlement, which may again give room for manoeuvre on an assured basis and which may then be adopted by the United Nations with conviction as a permanent and definitive solution.

Let it be said first that if Jerusalem is to take its rightful place as a spiritual centre for the whole world, Jew, Moslem and Christian should play their full part in making it a living city in which adherents of all three faiths would take their share in the building up of cultural and spiritual life. There must be from the nature of the case an international enclave. It must be of such a kind as to win the goodwill of the three great faiths and give room for them to develop worthy religious and cultural institutions so that visitors, tourists, scholars and pilgrims who come to Jerusalem from all parts of the world may see and perceive a city which while embracing members of three faiths is yet at unity in itself. The problem is to discover an international enclave which may be accepted with reasonable goodwill by all concerned.

III. *A new plan*: The areas of Jerusalem which are here considered are those lying immediately to the north, west and south of the Old City.

(a) It is proposed that the large Jewish residential area in the north and west should not be a part of the international enclave but should be incorporated in the Israeli State. The area may be defined as that lying to the north and west of a line beginning from the junction of the Nablus Road with St. Paul's Road and running south-west along St. Paul's Road, then west along the Street of the Prophets and then south along King George Avenue as far as Terra Santa College.

In this area a large number of Jews live. Its exclusion from the international enclave and its inclusion in the

Israeli State is reasonable in itself and should be a cause of satisfaction to the Jews.

(b) With this exception, the whole area originally assigned to the international enclave should remain under international authority, but without any division into zones. Within the enclave Jews and Arabs would dwell together with equal rights. But there are certain points which call for special comment.

(i) The area lying south and east of the roads mentioned under (a) above and between those roads and the Old City constitutes the main shopping centre of the modern city. It also contains a large number of public buildings such as Barclays Bank, the General Post Office, King David Hotel, the International Young Men's Christian Association, the electric power station, the railway station. Moreover, it contains the big Arab cemetery and a number of religious buildings.

Thus, this area serves in a special degree the whole region and should most properly be in the international enclave. Even more important, it would thus interpose an international area between the limits of the Israeli State (as defined above) and the Old City.

The present plan perpetuates two irritant demarcation lines, one between the Israeli State and the international enclave, another inside the enclave between the Jewish municipal zone and the Arab municipal zone. This new plan has only one demarcation line, that between the Israeli State and the enclave, and drawn as here suggested it should be widely acceptable to the Jews as at least an improvement on the present plan. At the same time by putting the line as here suggested at some distance from the walls of the Old City, it should greatly diminish fears of aggression on the one side and covetous aspirations on the other.

(ii) Mount Scopus and the Mount of Olives, with the Hebrew University, would be in the international enclave where Jew and Arab have equal rights, but not (as in the present plan) in an Arab municipal zone. Thus Jews will have free access to the University. They should be encouraged to consider this University as their most important intellectual contribution to the international city, functioning side by side with Moslem and Christian higher institutions of learning, and so contributing to make Jerusalem a great spiritual centre for the world.

(iii) The area to the south of Terra Santa College bounded by Mamillah Road, King George Avenue and the Bethlehem Road would be in the international enclave, but not (as in the present plan) in a Jewish municipal zone. It was, before the departure of the British, an Arab residential area; on their departure it was immediately occupied by Jewish forces; the Arab population has mostly gone away and their homes have been largely occupied by Jewish families. Under international control every facility should be given for the development of an Arab residential population in this area.

(iv) Finally, in the Old City itself, removed as one would hope forever from strife and contention, facilities should be given for the return of Jews to the former Jewish quarter from which they have gone. And once again the Old City would contain its Moslem, Jewish and Christian quarters.

IV. In short, the proposal is for a return to an international enclave without division into Jewish and Arab zones. By handing over the area of the New City described above to the Israeli Government a great cause of contention is removed. Within the international zone control could be complete and effective. Old wounds could be healed, and Jerusalem set free to fulfil its great message to mankind. If such a proposal found general support in the United Nations it could be carried through with conviction as a fair and a hopeful plan of action. The deadlock must be broken. The interminable process of discussions must come to an end. Here is suggested a plan which (after discussion and with any necessary modification of details but without any change of its principles) the United Nations could promote strongly and unitedly, thereby setting Jerusalem apart for all time from world strife and giving fresh hope and encouragement to those who strive for the cause of peace on earth.

V. A note should be added on Nazareth. With the international enclave in Jerusalem it would be easy to arrange some degree of international supervision of Nazareth or of any other Holy Place outside Jerusalem as a safeguard against any possible misuse of these Holy Places.

6. LETTERS DATED 18 AND 19 JANUARY 1950 FROM AN UNOFFICIAL FACT-FINDING MISSION OF THE AMERICAN CHRISTIAN PALESTINE COMMITTEE TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

The undersigned have just completed an extensive visit to Israel as an unofficial, completely independent Fact-Finding Mission of the American Christian Palestine Committee. We have observed conditions existing in both Jewish and Arab areas. Cities and localities covered include Tel-Aviv, Jaffa, Haifa, Jerusalem, Nazareth, Tiberias, Beer-Sheba, and many intervening points in the Negev, Judea and Galilee. We discussed the problem of the internationalization of Jerusalem with representatives of the Government of Israel, the Coptic church, the Greek Catholic church, the Copt Catholic church, the Roman Catholic church, Protestant churches, and with Arabs (both Christian and Moslem), as well as with many city officials and administrative officers. From these discussions, we have come to the following conclusions:

1. We believe that the plan to internationalize the Jerusalem area is dangerous and unnecessary. The overwhelming majority of leaders of religious groups we interviewed expressed the belief it would not work. Many held it was impractical and certain to add confusion and impede peace negotiations now in progress.

Total internationalization is not necessary for the protection of the Holy Places. Neither the Arabs nor Israelis have any other plan or purpose than to protect and preserve them. Moslems have kept these places inviolate for many centuries, and virtually all of them are now in Arab hands. There is not the slightest evidence that Israel will molest or limit the use of any religious institution or shrine.

There is complete religious freedom in Israel. The many leaders of religious institutions interviewed all declared they were in no wise interfered with in their functions.

2. The prevailing conviction was that when the bitterness created by the recent war will have diminished,

Israel and the Arabs would yet come to an agreement in these controversial matters, provided external interference did not complicate the problem.

An illustration of such adjustability between Arabs and Israelis is to be found in Nazareth. A predominantly Moslem community, with a Moslem mayor (Yousef Fahoum), this city nevertheless has about three thousand Roman Catholics, three thousand Orthodox, and several thousand Protestants. This city is under Israeli military administration. However, the mayor assured us that he was free in the exercise of his functions. Thus, in a city the Arab authorities of which had wisely decided that the people would remain in their homes and not flee to Arab Legion territory, the same peace, harmony and freedom exist which are characteristic of all Israel. This area is represented in the Knesset (Parliament) by three Arabs! It is our conviction that the co-operative and harmonious relationship existing between Israeli officials and Christian institutions in Nazareth is the strongest possible evidence against any need for the maximal internationalization of the Jerusalem area.

3. We regard as utterly false and without any factual support the report that Israelis have desecrated religious institutions, churches, or shrines since the fighting ceased. The Government of Israel has established a Department of Religious Affairs, dealing constructively and fairly with the complex religious communities in the territory. A special division concerns itself with Christian organizations to see that Christian communities and activities are protected and to maintain agreeable relationships with the Government of Israel. The actions of this division are greatly encouraging to all religious leaders. We would add with conviction and appreciation that the prevailing spiritual attitude of the people and Government of Israel is a further guarantee of all religious rights. These people have undergone the trials of a bitter war. They are building a society, established on the principles of full equality and liberty, and they should be encouraged and sustained by all Americans who believe in these principles not only for the Middle East, but for all the world.

Numerous Christian and Moslem institutions have been protected by express orders of the Government of Israel, with signs conspicuously posted, and it was evident from our inspection of the premises that these orders are carefully obeyed. In many cases, where the building has been caught in the line of fire, restitution has been made and restoration is in process.

4. On the basic issue of internationalization, we would caution against the drafting of a Jerusalem Statute by the United Nations that would interfere with the just territorial sovereignty of any nation, in this case the territory of Israel and Jordan. Both of these nations properly object to the United Nations plan on this ground. Freedom of access and protection of the Holy Places can easily be secured without the internationalization of territory or people.

5. The Garreau plan for internationalization is, in our opinion, a decided improvement over previous maximal schemes but is still too inclusive.

It is hardly justifiable to exclude so obvious a Holy Place as the Mosque of Omar of the Old City from

an internationalized zone, and then to include a portion of the business district of the New City, and the entire Mount Scopus where absolutely no legally established Holy Places are to be found. To advance such a plan on the ground that the territory to be taken from Israel and Jordan must be equalized is to condemn the plan by demonstrating that the major consideration is not concern for the Holy Places.

The greatest criticism advanced against all plans outlined to date is that they were drafted without regard to the wishes of the citizens of the Old and New Jerusalem, but rather from the political considerations of the various Member Governments of the United Nations and by outside interests. The one exception is to be found in that part of the Garreau plan dealing with Bethlehem. There, the wishes of the people seem to have been considered, for it is proposed that the Church of the Nativity alone be internationalized and that the remainder of the city remain under the administration of Jordan.

6. While this Fact-Finding Mission had as its purpose the study of the internationalization of Jerusalem we could not escape the human problems arising out of the tragedy of war, such as homelessness, the displacement of peoples and the psychological problems besetting both peoples. We believe that these human tragedies must be alleviated in the spirit of attaining the maximum justice for both Jews and Arabs. It was apparent to us that these human problems cannot be resolved in any permanent fashion except as a part of an over-all peace signed between the several Arab States and Israel. It is therefore of overwhelming importance, both for this purpose and for any permanent adjustment concerning the sacred sites, to effect a speedy peace settlement.

7. The plan we, as fact-finders, now propose is the setting up of a United Nations Commission, with no territorial sovereignty, but with full right to seek the removal of existing limitations of access to the Old City of Jerusalem and the Holy Places, all of which are in Arab territory. Guarantees should be given to such a commission by both Jordan and Israel assuring the freedom and sanctity of the sacred places within their territories. This is all that the Christian world has a right to require of two sovereign States, which we believe will in time compose their differences. This making of the peace will be accomplished all the more speedily if Israel and Jordan are encouraged in their negotiations by the western Powers.

Accordingly, we call upon our Government to press for a reconsideration of the United Nations Assembly decision and to urge the adoption of a plan such as outlined above. We would point out to all who are justifiably interested in the prestige and power of the United Nations that the reconsideration of its decision is within the prerogatives of the international Organization, and that the formulation of a just and workable plan for guaranteeing the sanctity of the Holy Places will enhance its prestige and power.

(Signed) Dr. John W. BRADBURY
Dr. Victor OBENHAUS
Mrs. M. E. TILLY
Dr. Samuel Guy INMAN
Dr. Ralph W. RILEY
Dr. Charles J. TURCK

The following introductory paragraph was inadvertently omitted from the letter on the internationalization of Jerusalem sent to you on 18 January by the American Christian Palestine Committee Fact-Finding Mission:

"We find ourselves in hearty agreement with the action of the American delegation at the last meeting of the United Nations Assembly in opposing the internationalization of Jerusalem and the Holy Places and regard it as a wise position for our Government to have taken. We are in accord with the statement of the Honorable Francis B. Sayre, the United States representative on the Trusteeship Council, that 'the United States favoured a practical solution of the Jerusalem problem and that no solution is practical that has to be enforced with the aid of an American Army'."

(Signed) Dr. Samuel Guy INMAN
Dr. Charles J. TURCK
Mrs. M. E. TILLY
Dr. Ralph W. RILEY
Dr. John W. BRADBURY
Prof. Victor OBENHAUS

7. LETTER DATED 13 JANUARY 1950 FROM THE REVEREND CHARLES T. BRIDGEMAN TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL, AND ATTACHED MEMORANDUM

Having lived in Jerusalem for twenty years prior to 1944, I beg leave to draw the attention of your Council to the enclosed memorandum, which brings out what I believe to be a neglected aspect of the Jerusalem problem.

The vast majority of the 24,000 Christians and a good proportion of the 23,000 Moslems who live outside the walls of Jerusalem had their homes, businesses and charitable institutions in that portion of the Jerusalem area now held by the Israeli forces. Though the report appearing as of today in the *New York Times* suggests that your Council is considering a new arrangement of the international area which is an improvement on the suggestions made by Israel and the Kingdom of Jordan, I think the plan as reported still falls short of what is required, as it cuts up the city into too many sections and leaves too much of the area occupied normally by non-Jews in the Israeli sector.

Although not being on the spot I have been unable to check all details of my map,* I believe that you will find it substantially correct.

(Signed) Charles T. BRIDGEMAN

The internationalization of Jerusalem and the Christian population

by Charles T. Bridgeman

The Assembly of the United Nations has reaffirmed its decision of 1947 to place Jerusalem, Bethlehem and an adjacent region of about 100 square miles under international control.

Israel and the Hashimite Kingdom of the Jordan, whose respective military forces now occupy the western and the eastern halves of the area, have expressed their

* Map not attached to the present document.

determination not to surrender the parts they hold to international administration; and Israel has gone so far as to begin making Jerusalem the capital of the State of Israel.

In the face of this defiance of the Assembly's action, the world is wondering whether the United Nations has the moral and military forces sufficient to impose its plan. Moral force springs from the strength of moral conviction. At the moment the strength of the case for partition rests not alone upon the trouble it would cause to have to impose the plan against possible military opposition, but also on the popular ignorance of what partition of the city of Jerusalem would really mean to the people living there and to the world at large.

Foremost among the popular misconceptions about Jerusalem are:

(1) That the Jews have a greater claim to the city than anyone else;

(2) That there are really two separate Jerusalems: the old Walled City occupied by Arab forces; and the "New Jewish City" mainly populated and created by Jews;

(3) That in such a case as this, where rival nations make a claim to the same city, and agree to divide it between themselves, it is but right to allow them to make this mutual compromise.

This paper is designed to bring out some neglected considerations concerning the actual situation, with the purpose of showing that in fact Jerusalem is one indivisible city, and that the existence of a large Christian population in Jerusalem makes the proposed division of the city into predominantly Israeli and Moslem Arab parts highly inequitable.

1. *History*: 1950 marks approximately the three thousandth year since the Israelites under David took Jerusalem from the Jebusites. Out of that long period the Israelites and the Jews have governed the city for only about 600 years, even including the years when Herod ruled as a vassal of Rome (see Exhibit A). Even as the main element in the population the Jews largely disappeared after the wars of A.D. 70 and A.D. 135. Benjamin of Tudela, a Jewish pilgrim who visited the Holy Land about A.D. 1170-71 found but 1,440 Jews in all Palestine; and Nahman Gerondi, in A.D. 1267, found only two Jewish families in Jerusalem.

Christians began to appear in the first century, and under Christian Byzantine rule became a predominant element. Christians under the Roman Empire and the Crusades ruled the city for almost 500 years. Moslem Arabs conquered the country in A.D. 639 and ruled it for 425 years, being succeeded by the Moslem Turks who ruled it for 420 years.

The historical association of Christians and Moslems with Jerusalem is just as significant as that of the Jews; and the Christians, who have lived in the city continuously for 1,900 years, have as weighty a claim to consideration as any others. And on religious grounds Jerusalem is a Holy City of great importance to Christians and to Moslems as well as to Jews. It is a city of three faiths.

2. *The geography of Jerusalem*: The ancient Walled City is bounded on the east and the south by steep valleys which cut it off from the adjacent hills. On the north and west opens a plateau which in modern times as in antiquity serves to provide room for expansion outside the historic walls.

In the middle of the last century Christians and Moslems as well as Jews began to expand into this suburban extra-mural area. Jewish settlers coming from Europe could find no place inside the small Jewish quarter of the Walled City and so built outside. The better-class Christians and Moslems sought the suburbs to find more room and a healthier atmosphere. The greater proportion of the many Christian communities coming to Jerusalem in the past century have also settled outside the walls. Meanwhile, the Mount of Olives to the east of Jerusalem has been occupied by Christian churches and convents and Jewish cemeteries; and Mount Scopus to the north has become the site of the Hebrew University and the Hadassah Hospital.

No-man's-land and the present military line between the two rival nations cut the city in half, leaving almost the whole of the western suburban area in Israeli hands and the walled city in Arab hands.

3. *Population elements in the enclave and in Jerusalem*: In the Jerusalem-Bethlehem enclave as a whole there were, before the recent fighting began, about 100,000 Jews, 65,000 Moslems and 40,000 Christians. The vast majority of the Christians were native stock, commonly called Christian Arabs.

In Jerusalem itself, the Mandatory Government estimated in 1946 that there were 99,320 Jews, 33,680 Moslems and 31,350 Christians.

Today we are informed that there are but 1,000 Arabs in the Israeli-held western part of the city. Such was not the case prior to the fighting. The following estimate, though necessarily sketchy for lack of exact figures, gives a fair picture of the condition before the fighting started.

	Jews	Christians	Moslems
Living within the walls....	4,000	7,000	10,000
Living outside the walls...	95,000	24,000	23,000

(For the basis of this estimate see Exhibit B.)

Forty-seven thousand Christians and Moslems then occupied the extra-mural area, most of which is now in Israeli hands and has but 1,000 Arabs.

4. *Economic and social life of Jerusalem*: Under the Turks and the British, extra-mural Jerusalem grew up as a community in which people could buy land where they wished and settle where they liked. All three religious communities lived side by side and intermingled. There was a certain tendency for communities to settle in distinct quarters but they were not contiguous, being separated by quarters of the other communities.

All communities shared in the migration to outside the walls. The homes of the better-class Arabs, Christians and Moslems alike, were all found in the extra-mural area, leaving only the poorer families and the members of religious establishments inside the walls. This area was not therefore exclusively or mainly

Jewish. All modern shops, hotels and factories, a goodly number of which are owned by the Arabs, are found in the part outside the walls.

Those who lived inside the walls went outside to do business in a bank, to attend a hospital, to attend school, or to buy at the modern shops. By the same sign, those who lived in the extra-mural area went inside the walls to worship at the shrines, Jewish, Moslem and Christian, to buy vegetables in the old market and to visit friends living in the old houses.

If the city were to be partitioned along the line of the present no-man's-land it would run a sword through the living body of a unified city, and erect an international frontier between people and their banks, schools and hospitals, places of business and places of worship. For example, the Jews of the western part would be cut off from the old Jewish quarter, the sacred Wailing Wall, the Hadassah Hospital and the Hebrew University, as well as all the Jewish cemeteries. And the Moslem and Christian inhabitants now refugees from their homes, schools and places of business in the extra-mural area would be deprived of the very substance of their lives; and the ones normally living in the Walled City would be cut off from access to the essential shops and hospitals outside.

5. *The international character of Jerusalem:* Jerusalem is not just an Arab-Jewish city. It is international in its very constitution.

Practically all of the sixty living languages spoken in Palestine are represented in Jerusalem. Christians in Jerusalem come from thirty different countries. Moslems speak seventeen different languages. The Jews themselves, though now seeking to stress the need for speaking Hebrew and taking Israeli nationality, come from many countries and speak twenty-six different languages as their native tongues.

Foremost among the foreign Christian nations were the French, the Italians, the Russians and the old German settlers. Of course, the British community has shrunk to small proportions since the giving up of the Mandate; and the Christian American community has been less than 100 persons. But the international character of the city is proclaimed by the many different styles of architecture used by the different nationalities, and heard in the babel of tongues in the streets.

6. *The inter-confessional character of the city:* It is hardly necessary to observe that Jews and Moslems of every important sect are found in Jerusalem. But the same is true of Christians. The following figures taken from the census of 1931, though much smaller than they would have been in 1946 when the city was much larger, suggest something of the variety and importance of the various Christian bodies.

Orthodox Patriarchate of Jerusalem (Native Arabs, Greeks, Russians, Romanians, Bulgarians etc.)	13,595
Syrian Orthodox (Jacobite)	979
Armenian Orthodox (Gregorian)	2,154
Coptic (Egyptian Christians)	90
Abyssinian Church	93

Roman Catholic:

Latin Rite	8,756
Greek Rite	351
Maronite	130
Armenian Catholic	273
Syrian Catholic	142
Assyrian Catholic	46

9,698

Anglican:

British	about 1,000
Arab	391

1,391

Presbyterian	34
Lutheran	67
German Temple Society	about 200
Unclassified, including American Protestants, Armenian Protestants, Pentacostal, Baptist, Methodist, Hebrew-Christian etc.	2,292

By 1946 the total number of Christians had increased to 31,350.

7. *The Christian stake in the Holy City:* The real Christian stake in the Holy City lies in the lives of the 31,000 Christians who normally inhabit the city and constitute the oldest Christian community in the world.

The attempt has been made to becloud this fact by speaking as though the only interest Christians had in the Holy City lay in a few Holy Places whose protection could be assigned to a small commission of the United Nations.

There are indeed certain very sacred "international shrines," among them the Church of the Holy Sepulchre, the Temple Area and the Wailing Wall, which have preoccupied the attention in turn of the Turkish and British Governments because, being owned by several different religions, they have been the object of special attention. Even these are but a fraction of the recognized places of religious interest. The situation in the international shrines has for nearly two centuries been stabilized by a recognized *status quo*. The proper administration of this *status quo* is, of course, an important matter for the United Nations.

But still more important to every Christian community is the wholesome life of its members and the continuance of the Christian community as a vital part of the complex life of the Holy City.

At the present moment the vast majority of the Christians are refugees from their homes, their businesses, their churches, their schools and their hospitals, and if under a partitioned Jerusalem they are prohibited from repossessing the homes now occupied by new immigrants they will have been permanently dispossessed of their stake in the Holy City.

8. *Christian institutions in Israeli-held areas:* How considerable is the share which Christians have in the Israeli-held parts of the city can be seen from the following long, but still incomplete list of important institutions. See map for numbers showing approximate locations.

It will be noted that all six Christian hospitals, caring in a normal year for 7,000 patients (including 1,000 Jews), are in the Israeli-held area. So also are twelve parish churches, fourteen convents, sixteen schools, in-

cluding almost all the high schools used by Christians and Moslems, and other such institutions as the American YMCA, the Jesuit Biblical Institute, and the like.

- | | |
|---|--|
| 1. English Hospital | 28. School of the Sisters of Zion (RC) |
| 2. German Hospital | 29. Convent and Hospice of the Sisters of St. Charles (RC) |
| 3. Italian Hospital | 30. French Sisters' School in Talbiyeh (RC) |
| 4. Ophthalmic Hospital of the Order of St. John of Jerusalem | 31. Convent of the Sisters of St. Claire (RC) |
| 5. Moravian Leper Hospital | 32. Convent and School of the Sisters of St. Joseph (RC) |
| 6. French Hospital | 33. Syrian Orthodox School |
| 7. American Y.M.C.A. | 34. Greek Orthodox Lay School |
| 8. American Protestant Church (Armenian Protestant) | 35. Greek School in Katamon |
| 9. The American Church (C. & M.A.) | 36. Bishop Gobat Junior School (Anglican) |
| 10. The American Pentacostal Church | 37. Talitha Kumi School (Luth.) |
| 11. The Newman School of Missions (Methodist) | 38. Jesuit Biblical Institute |
| 12. American Baptist Mission | 39. Greek Orthodox Convent of the Holy Cross |
| 13. Russian Church and Convent | 40. The American (Protestant) Cemetery |
| 14. Abyssinian Church and Convent | 41. The Benedictine Convent with the Church of the Dormition of the Blessed Virgin |
| 15. Scottish Church of St. Andrew | 42. The Armenian Church of the House of Caiaphas |
| 16. German Temple Church | 43. The Cenacle (Moslem Tomb of David) where Franciscans have rights) |
| 17. St. Paul's Arab Anglican Church | 44. The residence of the Apostolic Delegate |
| 18. Greek Church of Nicophoria | 45. The British-German Cemetery |
| 19. Greek Convent of St. Simeon the Just, Katamon | 46. The Orthodox Cemetery |
| 20. Greek Church of Abu Tor | 47. The Latin Cemetery |
| 21. Ratisbon Convent and School (RC) | 48. The Armenian Cemetery |
| 22. Terra Santa College (RC) | 49. The Hospice of Notre Dame (French RC) |
| 23. Jerusalem Girls' College (Anglican) | 50. The Greek Convent of Mount Zion |
| 24. Schmidt's Girls High School (RC) | 51. The Italian School |
| 25. Convent of the <i>Sœurs de Marie Réparatrice</i> (RC) | 52A. The Syrian Orphanage (Lutheran) |
| 26. Convent and School of the <i>Sœurs du Rosaire</i> (RC) | 52B. The Romanian Orthodox Church |
| 27. Convent, School and Orphanage of the <i>Sœurs de Charité</i> (RC) | |

Christian institutions in no-man's-land

The Franciscan Boys' School	The Church and Convent of the Assumptionist Fathers at Church of St. Peter of the Cock Crowing
The Swedish School	
The Syrian Orthodox Patriarchate	

9. *Christian institutions in Arab-held area north of city:* There are also many Christian institutions in the Arab-held areas outside the walled city. Those in the northern suburb are here treated separately because possession of this area by the Arabs cuts off the Israelis from access to their highly important Hebrew University and Hadassah Hospital on Mount Scopus. If an effort were made to secure this area for the Israelis, it would affect the following institutions in part or whole:

- 53A. St. George's Anglican Cathedral and Hospice
53B. St. George's Junior and High School for Boys

54. St. Stephen's Church and the Dominican (RC) Convent with its *Ecole Biblique*
55. Convent and school of the *Sœurs Franciscaines de Marie* (RC)
56. The "Garden Tomb", considered by many Protestants the real tomb of Christ
57. The Lazarist Convent and former school building
58. The American Colony
59. The Augusta Victoria Foundation on the Mount of Olives (German Lutheran)
60. The American Colony Cemetery
61. The British War Cemetery (World War I)

10. Other Christian institutions in Arab-held areas outside the walls:

62. The Garden of Gethsemane, with the Franciscan Church of the Agony (RC)
63. The Tomb of the Blessed Virgin (Orthodox, Armenian, Syrian and Moslem)
64. Russian Gethsemane and Church of St. Mary Magdalene with convent
65. The Greek Orthodox Shrine of the Stoning of St. Stephen
66. The Greek Orthodox Convent of "Ye Men of Galilee"
67. The Russian Orthodox Convent on the Mount of Olives
68. The Carmelite Sisters Convent, with the Churches of the Creed and the Lord's Prayer
69. The Church of the Sacred Heart on the site of the Eleona
70. The Church of the Ascension (now a Moslem mosque in which Latins, Orthodox, Armenians and Syrians have rights to hold services at times)

11. *Jewish and Moslem institutions cut off from their people:* The partition of the city along the present unnatural line would affect Jews and Moslems as well as Christians.

(a) Jewish institutions in Arab-held areas, inside and outside the Walls

The Wailing Wall, part of the old Jewish Temple
The Hebrew University
The Hadassah Hospital with its laboratories
The Jewish Quarter of the Old City with its old synagogues
All the Jewish cemeteries on the slopes of the Mount of Olives and Mount Zion

(b) Moslem institutions in Israeli hands

The great Moslem Cemetery of Mamillah
The building of the Moslem Charities foundation
Numerous Moslem villages with their mosques including the infamous Deir Yassin.

12. *The practical consequences of partition:* The above-mentioned Christian institutions are not mere buildings but the core of a living community. They are part of the life of the 31,000 Christians who normally inhabit Jerusalem, and more especially of the 24,000 who live outside the walls.

Partition means the erection of an international frontier down the middle of the city. Passage across this line, if allowed, would mean at least the carrying of passes and customs controls.

Furthermore both the Hashimite Arabs and the Israelis base their claim to their share of the city upon military necessity. Each says it is a vital element in their defence system. This means the permanent militarization of Jerusalem.

Israelis and Hashimite Arabs alike lay claim to the whole of the undivided city. Each regards partition as a temporary expedient. Eventually the fanatics in one camp or the other will precipitate a crisis when they think conditions favour their side and fighting will break out again in the City of Peace.

Partitioned Jerusalem will be a city of confusion ripe to become again a city of war.

13. *The inadequacy of the current Israeli proposals:* The Israeli Government, while proposing partition, suggests that Christian interests be protected by creating an international commission to supervise the "international shrines". Enough has been said to show how unrealistic this is from the Christian viewpoint.

But they have a second proposal: that the old Walled City be emptied of its inhabitants and the whole made into an international shrine.

This is both cynical and impracticable. The Israelis suggest that while they be allowed to keep all their share, the Arabs be forced to surrender their share. Moreover the suburban area in Arab hands adjacent to the city is unsuitable for extensive erection of new homes for the 17,000 people who would be displaced.

14. *The plea that internationalisation against the will of the Israeli and Moslem Arab inhabitants would be undemocratic:* Did we hear this argument put forward by the Arabs, who for years have been protesting, on democratic principles, for the right to have their voice heard in the disposition of Palestine, in which they had a two-thirds majority, one might be inclined to listen. But the Zionists, who have been replying to the Arabs that it was by right of the international judgment of the League of Nations and the United Nations that the Arabs' inherent rights have been set aside in favour of the Jews, now hasten to assert the principles of self-determination.

It is by no means certain that all the Jews and all the Moslems in Jerusalem, faced with the fell consequences of partition, are in favour of the plan. But, even if they were, it should be noted (1) that they will not under internationalization lose their citizenship; and (2) they will have almost complete autonomy in local inter-communal affairs.

If in either an Israeli or a Moslem community the advantages of living in the Holy City are outweighed by the annoyance of being under international supervision, they are not compelled to remain there. But, in fact, one wonders whether many would indeed leave.

Meanwhile, under international control all the three communities and the citizens of the many countries could enjoy a peace and security which otherwise would be unknown, and with it free access to the whole of the indivisible city.

15. *The boggy of predominant Vatican influence:* The Israelis have made a direct bid for Protestant support for partition. Ben Gurion recently was reported to have said that the supporters of internationalization were the Arabs, the Communists and the Roman Catholics.

Protestant leaders in America have been told that internationalization means that the Vatican will soon dominate the Holy City; while Orthodox Christian leaders in Jerusalem are warned that under internationalization the Vatican will take away their rights in the international shrines.

This unworthy suggestion is easily answered.

The respective rights of the various Christian communities who share the international shrines, such as

the Holy Sepulchre and the Church of the Nativity at Bethlehem, were established nearly two centuries ago by the Ottoman Turks and have been sedulously maintained by the British. Any international commission, on which Orthodox and Protestant as well as Roman Catholic countries, and Moslem States as well as the State of Israel, would be represented, would make it their primary duty to see that no painful changes were made in the well-established *status quo*. Nor would the Vatican wish to be placed in the invidious position of altering so delicate a situation.

But granted such a thing were possible, what Christian is there who would prefer handing the holiest shrines of the Christian religion and the welfare of the Christian community over to non-Christians in preference to seeing them in the hands of fellow-Christians, even of a different tradition?

16. *The question of force:* In view of the fact that spokesmen for Israel and also for Jordan suggest that they would oppose by force the attempt to internationalize the Holy City, the question arises whether the United Nations has the military force to impose its decision. As one pro-partition spokesman expressed it: Who among the Christians is ready to die to make Jerusalem an international city?

No realistic person can think that, if the United Nations is firm in supporting its decision to create the enclave, the Hashimite Arabs and still less the Israelis would dare to defy with armed force the considered judgment of the nations.

Israel is too dependent upon public opinion to risk such a calamity, which would ruin its much-valued reputation for fairness and international decency. And both Israelis and Hashimite Arabs could quickly be brought to terms by the mere application of those economic sanctions which lie within the power of the United Nations. Of the two Israel is even more vulnerable in this respect than the Arabs.

But there is a force stronger than that of military might.

Israelis and Moslem Arabs as well as Christians realize that mere nationalistic fervour must yield place to the superior claims of international brotherhood and religion. Jerusalem, sacred to the three great monotheistic religions, stands for something higher and more sublime than nationalism. It stands for the ideal which lies behind the very creation of the United Nations itself. Any attempt to oppose by force the internationalization of Jerusalem would be an affront to civilized men everywhere. It would be tantamount to the assertion that international goodwill, brotherhood and toleration were dead, and that force alone ruled the destinies of men.

An international enclave where the three religions could live side by side in peace and the nations of the world lay aside their nationalism in the interests of something nobler and grander would be indeed an inspiration to men of good will everywhere.
New York, 6 January 1950.

EXHIBIT A

The dominant Governments in Jerusalem 3000 B.C.- A.D. 1950

		<i>Years</i>
Israelites	Davidic Kingdom to Fall of Jerusalem 1050-586 B.C.	464
Babylonians	Fall of Jerusalem to fall of Babylon 586-538 B.C.	50
Persians	Cyrus to Macedonian conquest of Persia 538-332 B.C.	206
Greeks	Alexander's conquest of Jerusalem to emancipation of city by Maccabees 332-166 B.C.	166
Jews	Maccabean Kingdom 166-63 B.C.	93
Pagan Romans	Roman conquest of Jerusalem to fall of paganism 63 B.C.-A.D. 386	386
	(Herod as vassal of Rome and his heir: semi-independent Jewish rules 37 B.C.-A.D. 6	43
Christian Romans	From Constantine to Persian conquest A.D. 323-614	291
Persians	Period of Persian rule A.D. 614-628	14
Romans	Reconquest of city by Byzantines A.D. 628-637	11
Arabs	Conquest by Moslem Arabs A.D. 637-1072	435
Turks	Rule by Moslem Turks A.D. 1072-1092	20
Arabs	Reconquest by Arabs A.D. 1092-1099	7
Christians	Crusading Kingdom A.D. 1099-1187	88
Arabs	Reconquest by Arabs A.D. 1187-1229	42
Christians	City ceded by treaty to Frederick II A.D. 1229-1239	10
Arabs	Revived Arab rule A.D. 1239-1514	278
Moslem Turks	Jerusalem under Ottoman Turks A.D. 1517-1917	400
Christians	British conquest and mandate A.D. 1917-1947	30
	Jerusalem seized by Israelis and Arabs A.D. 1947-1950	3

EXHIBIT B

The Population of Jerusalem outside the walls

All figures for the population of Jerusalem since the careful 1931 census are estimates. At that time the population of Jerusalem was given as follows:

	<i>Total</i>	<i>Moslems</i>	<i>Christians</i>	<i>Jews</i>
Inside the walls	25,183	12,201	7,759	5,222
Outside the walls	65,320	7,693	11,576	46,000

Since that date there has been a steady movement away from the Walled City, Moslems and Christians as well as Jews seeking better quarters outside.

In 1946, the British Mandatory Government estimated that the population of Jerusalem was 164,350, and included 33,680 Moslems, 31,350 Christians and 99,320 Jews. Allowing therefore for a small decline in the population within the Walled City, this gives us for this date, prior to the fighting which made refugees of most of the Moslem and Christian inhabitants of the extra-mural area, the following rough estimate for the numbers living inside and outside the Walled City:

	<i>Moslems</i>	<i>Christians</i>	<i>Jews</i>
Within the walls	10,000	7,000	4,000
Outside the walls	21,000	24,000	95,000

Of the 45,000 non-Jews living then in extra-mural Jerusalem, the greater proportion lived in the area now occupied by Israeli forces. Included in these Israeli-held areas are the fine modern quarters of Talbiyeh, German Colony, Katamon, Upper and Lower Beka's and Abu Tor.

8. LETTER DATED 16 JANUARY 1950 FROM MRS. FREDA KIRCHWEY, PRESIDENT OF THE NATION ASSOCIATES TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

On the eve of the meeting of the Trusteeship Council, I am taking the liberty of bringing to your attention and, through you, to the members of the Trusteeship Council, a plan offering a solution for the Jerusalem question entitled, "A proposal for an international curatorship for Holy Places".

This proposal was submitted by the signatories, a group of distinguished Americans, to the General Assembly recently concluded. This proposal, like many others, failed to receive detailed study for reasons with which you are familiar and which need no recounting at this time.

I invite your attention to the plan at this moment in view of a disposition on your part and seemingly of other members of the Trusteeship Council to look for solutions of the Jerusalem question on a basis different from the resolution of 9 December.

This plan calls for the establishment of a United Nations' Commission composed of representatives of the principal faiths for the purpose of:

1. Authenticating the Holy Sites in Palestine.
2. Assuming responsibility for their preservation.
3. Ensuring freedom of access at all times.
4. Supervising the restoration of such Holy Sites, if any, as may have been damaged in the Palestine war.

The Commission to be established would be responsible to the Security Council and be authorized to employ guards.

In the judgment of the signatories, this plan is in accord with the general purposes of the United Nations respecting the Jerusalem question. It does, in fact, protect the Holy Places, since any violation of their sanctity would immediately become subject to the action of the Security Council. It is in accord with the basic principles of the Charter. It would, we believe, find acceptance on the part of Jordan and Israel.

It would be possible under the plan proposed to fly the United Nations flag over each Holy Site so designated and to proclaim the area occupied by each a demilitarized zone.

The principle underlying this proposal is precisely the same under which you, as we understand it, have proposed that the Church of the Nativity in Bethlehem should be internationalized and demilitarized. In the case of Bethlehem and the Church of the Nativity, you have not suggested either the internationalization of the city as a whole or the internationalization of its population. We see no reason why the same principle is not equally applicable to all other Holy Sites.

On behalf of the signatories, may I ask that consideration be given to this plan as fulfilling the basic purposes of the United Nations regarding this question.

(Signed) Freda KIRCHWEY

9. TELEGRAM DATED 5 FEBRUARY 1950 FROM A NUMBER OF CATHOLIC INTERNATIONAL ORGANIZATIONS TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

The undersigned Catholic international organizations assembled at Luxembourg for their annual conference declare on behalf of their millions of members in 71 countries in 5 continents their support for United Nations General Assembly resolution of 9 December 1949 concerning internationalization Jerusalem stop They express their confidence that the Trusteeship Council will ensure its full and faithful implementation. —International Catholic Association of Girls' Friendly Societies, International Christian Welfare Association, Catholic Children's International, International Bureau Catholic Youth, Caritas Catholica, Catholic Associations of Nurses, Editors Catholic Newspapers, Catholic Young Women, Pax Romana, International Movement Catholic Intellectuals, International Catholic Cinema Office, Associations Catholic Medical Practitioners, Joc International St. Vincent de Paul Society, International Catholic Bureau of Broadcasting, Catholic Employers' Associations, Catholic Union International Study, Catholic International Union Social Service, International Union Catholic Women's Leagues, Men's Catholic Action.

10. CABLEGRAM DATED 7 FEBRUARY 1950 FROM THE SECRETARY OF THE NETURE KARTA COMMUNITY TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL

We beg Your Excellency to take into consideration the wishes of the Jewish Orthodox population Neture Karta in Jerusalem stop They have expressed in many ways their wish to live under the international protection of the United Nations and not under the sovereignty of the State of Israel stop This has been

clearly stated in their memorandum of 18 July 1949 to the United Nations signed by Rabbis Aron Katzenelenbogen and Amram Blau, in accordance with the note to the United Nations of Rabbi Joseph Dushinski the late Orthodox Chief Rabbi of Jerusalem stop The same view was expressed by the present Chief Rabbi Ruben Bengis, when giving evidence before the Anglo-American Commission of Enquiry in Jerusalem stop We therefore beg Your Excellency to use your utmost influence that the area of Mea Shearim, where the Orthodox population is mostly concentrated be included in the international zone of administration or in any international scheme of supervision which may be created stop This is a life question for them stop They feel strongly that only under international protection their rights will be safeguarded stop We would also beg Your Excellency to request the authorities of the State of Israel not to enrol forcibly the Orthodox youth of Jerusalem for army services stop With the resolution of the United Nations Assembly Jerusalem is at present non-Israeli territory and it would be against the Charter of Human Rights to decide against their will stop Please be sure that this is the real Orthodox Jewish view although not openly expressed at the present moment because of various factors and above all the domination of Zionist propaganda who possess all the media to intimidate and belittle all those who are not prepared to share their ideals stop In the name of defenceless and at the moment helpless Orthodox Jews, and in the name of humanity and eternal justice, we appeal to the United Nations to embody these points in their final decision with regard to Jerusalem stop May God bless your work stop Tomchei, Neture Karta 123 Manor Road London-N-16 Rabbi Israel Domb, Secretary.

Annex II

STATUTE FOR THE CITY OF JERUSALEM

APPROVED BY THE TRUSTEESHIP COUNCIL AT ITS 81ST MEETING HELD ON 4 APRIL 1950

Preamble

Whereas the General Assembly of the United Nations in its resolution 181 (II) of 29 November 1947, laid down that the City of Jerusalem, as delimited in that resolution, should be established as a *corpus separatum* under a special international regime and should be administered by the United Nations,

Whereas the General Assembly designated the Trusteeship Council to discharge the responsibilities of the Administering Authority on behalf of the United Nations:

Whereas the special objectives to be pursued by the United Nations in discharging its administrative obligations were set forth in the aforesaid resolution as follows:

"(a) To protect and to preserve the unique spiritual and religious interests located in the City of the three great monotheistic faiths throughout the world, Christian, Jewish and Moslem; to this end to ensure that order and peace, and especially religious peace, reign in Jerusalem;

"(b) To foster co-operation among all the inhabitants of the City in their own interests as well as in order to encourage and support the peaceful development of the mutual relations between the two Palestinian peoples throughout the Holy Land; to promote the security, well-being and any constructive measures of development of the residents, having regard to the special circumstances and customs of the various peoples and communities";

Whereas the General Assembly in the aforesaid resolution directed the Trusteeship Council to elaborate and approve a detailed Statute for the City and prescribed certain provisions, the substance of which should be contained therein,

Whereas the Trusteeship Council prepared on 21 April 1948 the draft Statute for the City of Jerusalem (T/118/Rev.2),

Whereas the General Assembly of the United Nations, in its resolution 194 (III)¹ of 11 December 1948, resolved that a special treatment separate from that accorded to the rest of Palestine should be accorded to the Jerusalem area and that it should be placed under effective United Nations control,

Whereas the General Assembly of the United Nations, in its resolution 303 (IV) of 9 December 1949 re-stated "its intention that Jerusalem should be placed under a permanent international regime, which should envisage appropriate guarantees for the protection of the Holy Places, both within and outside Jerusalem", and requested the Trusteeship Council to "complete the

preparation of the Statute of Jerusalem, omitting the now inapplicable provisions" and, "without prejudice to the fundamental principles of the international regime for Jerusalem set forth in the General Assembly resolution 181 (II) of 29 November 1947 introducing therein amendments in the direction of its greater democratization, approve the Statute, and proceed immediately with its implementation",

The Trusteeship Council,

In pursuance of the aforesaid resolutions,

Approves the present Statute for the City of Jerusalem.

Article 1

Special International Regime

The present Statute defines the Special International Regime for the City of Jerusalem and constitutes it as a *corpus separatum* under the administration of the United Nations.

Article 2

Definitions and interpretations

In this Statute unless the contrary is stated or the context otherwise requires:

(a) "City" means the territory of the *corpus separatum*;

(b) "Governor" means the Governor of the City, and includes, to the extent of his authority, any officer authorized by or in pursuance of this Statute to perform the functions of the Governor;

(c) "Instructions of the Trusteeship Council" means any instructions, whether of a general or special character, which are given by the Trusteeship Council in relation to the application of this Statute;

(d) When a duty is imposed or a power is conferred, the duty shall be performed and the power may be exercised from time to time as occasion requires;

(e) When a power is conferred to make any order, or to enact any legislation, or to give any instruction or direction, the power shall be construed as including a power to rescind, repeal, amend or vary the order, legislation, instruction or direction;

(f) When a duty is imposed or a power is conferred on the holder of an office, the duty shall be performed and the power may be exercised by the holder of the office or by a person duly appointed to act for him.

Article 3

Authority of the Statute

This Statute shall prevail in the City. No judicial decision shall conflict or interfere with its provisions,

and no administrative act or legislative measure which conflicts or interferes with its provisions shall be valid.

Article 4

Boundaries of the territory of the City

1. The territory of the City shall include the municipality of Jerusalem, as delimited on 29 November 1947, together with the surrounding villages and towns, the most eastern of which is Abu Dis; the most southern Bethlehem; the most western Ein Karim (including also the built-up area of Motsa) and the most northern Shu'fat.

2. The precise boundaries of the City shall be delimited on the ground by a Commission to be nominated by the Trusteeship Council. A description of the boundaries so delimited shall be transmitted to the Trusteeship Council for its approval and a description of the approved boundaries shall be annexed to this Statute.

Article 5

Functions of the Trusteeship Council

The Trusteeship Council, by virtue of the authority conferred upon it by General Assembly resolutions 181 (II) of 29 November 1947 and 303 (IV) of 9 December 1949, shall discharge the responsibilities of the United Nations for the administration of the City in accordance with this Statute.

Article 6

Territorial integrity

1. The territorial integrity of the City and the special regime as defined in this Statute shall be assured by the United Nations.

2. The Governor, appointed by the Trusteeship Council in accordance with the provisions of article 12 of this Statute, shall inform the Trusteeship Council of any situation relating to the City the continuance of which is likely to endanger the territorial integrity of the City, or of any threat of aggression or act of aggression against the City, or of any other attempt to alter by force the special regime as defined in this Statute. If the Trusteeship Council is not in session and the Governor considers that any of the foregoing contingencies is of such urgency as to require immediate action by the United Nations, he shall bring the matter to the immediate attention of the Security Council through the Secretary-General of the United Nations.

Article 7

Demilitarization and neutrality

1. The City shall be, and remain, neutral and inviolable.

2. The City shall be demilitarized and no paramilitary formations, exercises or activities shall be permitted within its borders. No armed forces, except as may be provided under article 15 of this Statute or under the authority of the Security Council, shall be allowed in the City.

Article 8

Flag, seal and coat of arms

The Legislative Council, constituted in accordance with the provisions of article 21 of this Statute, may approve a flag, a seal and a coat of arms for the City.

Article 9

Human rights and fundamental freedoms

1. All persons are entitled to all the rights and freedoms set forth in this Statute, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. All persons shall enjoy freedom of conscience and shall, subject only to the requirements of public order, public morals and public health, enjoy all other human rights and fundamental freedoms, including freedom of religion and worship, language, education, speech and Press, assembly and association, petition (including petition to the Trusteeship Council), migration and movement.

Subject to the same requirements no measure shall be taken to obstruct or interfere with the activities of religious or charitable bodies of all faiths.

3. All persons have the right to life, liberty and security of person.

4. All persons are equal before the law and are entitled without any discrimination to equal protection of the law. All persons are entitled to equal protection against any discrimination in violation of this Statute and against any incitement to such discrimination.

5. No person may be arrested, detained, convicted or punished, except according to due process of law.

6. No person or property shall be subjected to search or seizure, except according to due process of law.

7. All persons are entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of their rights and obligations and of any criminal charge against them.

8. All persons charged with a penal offence have the right to be presumed innocent until proved guilty according to law in a public trial at which they have had all the guarantees necessary for their defence.

No person shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

9. No person shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. All persons have the right to the protection of the law against such interference or attacks.

10. All persons have the right to freedom of thought, conscience and religion; this right includes freedom to change their religion or belief, and freedom, either alone or in community with others, either in public or in

private, to manifest their religion or belief in teaching, practice, worship and observance.

11. All persons have the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media.

12. The legislation of the City shall neither place nor recognize any restriction upon the free use by any person of any language in private intercourse, in religious matters, in commerce, in the Press or in publications of any kind, or at public meetings.

13. The family law and personal status of all persons and communities and their religious interests, including endowments, shall be respected.

14. All persons, as members of society, have the right to social security and are entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of the City, of the economic, social and cultural rights indispensable for their dignity and the free development of their personalities.

15. Without prejudice to the provisions of the preceding paragraphs, the Universal Declaration of Human Rights shall be accepted as a standard of achievement for the City.

16. At such time as the proposed United Nations Covenant of Human Rights shall come into force the provisions of that Covenant shall enter into force also in the City in accordance with the provisions of article 37 of this Statute.

Article 10

Definition of residents

For the purposes of articles 11, 17, 21, 22 and 42 of this Statute, the following persons shall be deemed to be residents of the City:

(a) Persons who were ordinarily resident in the City on 29 November 1947 and have remained ordinarily so resident since that date;

(b) Persons ordinarily resident in the City on 29 November 1947, who, having left the City as refugees, subsequently return for the purpose of residing there;

(c) Persons who do not qualify as residents under paragraphs (a) or (b) of this article but who, after 29 November 1947 have been ordinarily resident in the City for a continuous period of not less than three years, and have not ceased to be ordinarily so resident: provided that the legislation of the City may make provision for the registration of persons ordinarily resident in the City, and that subject to such exceptions as are provided for in that legislation, persons shall be deemed not to be ordinarily resident in the City for the purposes of paragraphs (a), (b) and (c) of this article during any period in which they are in default in complying with the requirements of the legislation as to registration.

Article 11

Citizenship

1. All persons who at the date of coming into force of this Statute are residents of the City within the

meaning of article 10 of this Statute shall become *ipso facto* citizens of the City: provided that:

(a) All such residents who, at the date of coming into force of this Statute, are citizens of any State and who give notice in such manner and within such period as the Governor shall by order prescribe of their intention to retain the citizenship of that State shall not be deemed to be citizens of the City;

(b) Unless a wife gives notice on her own behalf within the period prescribed by order of the Governor, she shall be bound by the decision of her husband in either submitting or not submitting notice as prescribed by sub-paragraph (a) above;

(c) A notice given by a parent or legal guardian in accordance with the provisions of sub-paragraph (a) above shall bind his or her children of minor age of whom he or she has custody: provided that such a minor, on attaining his majority, may opt for the citizenship of the City by giving notice in such manner as the Governor may by order prescribe.

2. Subject to the provisions of paragraph 1 of this article, the conditions for the acquisition of citizenship of the City by persons who become residents after the date of the coming into force of this Statute and for the loss of citizenship of the City shall be laid down by legislation.

Article 12

Selection and term of office of the Governor

1. The Governor shall be appointed by and responsible to the Trusteeship Council.

2. The term of office of the Governor shall be three years from the time of his appointment: provided that:

(a) The Trusteeship Council may extend the term of office of the Governor in any particular case for such period as it may deem fit;

(b) The Governor may resign his appointment upon due notice to the Trusteeship Council and the Trusteeship Council may terminate his appointment for due cause at any time.

3. At the expiration of his term of office a Governor shall be eligible for re-appointment.

Article 13

General powers of the Governor

1. The Governor shall be the representative of the United Nations in the City.

2. The Governor, on behalf of the United Nations, shall exercise executive authority in the City and shall act as the chief administrative officer thereof, subject only to the provisions of this Statute and to the instructions of the Trusteeship Council. He shall be responsible for ensuring the peace, order and good government of the City in accordance with the special objectives set out in the Preamble to this Statute.

3. The Governor shall be responsible for exercising such supervision over religious or charitable bodies of all faiths in the City as may be required for the

maintenance of public order, public morals and public health. He shall exercise such supervision in conformity with existing rights and traditions.

4. The Governor shall negotiate with the States concerned agreements to ensure, in conformity with the resolutions of the General Assembly, the protection of the Holy Places located in the Holy Land outside the City.

5. The Governor and his official and private property shall not be in any way subject to the jurisdiction of the Legislative Council or of the Courts of the City.

Article 14

Power of pardon and reprieve

The Governor may grant to any offender convicted of any offence in any Court of the City a pardon, either free or conditional, or may grant remission of the sentence passed on such offender, or any respite of the execution of such sentence, for such period as the Governor deems fit, and may remit any fines, penalties or forfeitures which may accrue or become payable to the City by virtue of the judgment of any Court of the City or of the operation of any legislation of the City.

Article 15

Preservation of order

1. The Governor shall be responsible for the organization and direction of the police forces necessary for the maintenance of internal law and order.

2. The Governor shall organize and direct a special police force, of such numbers as he may deem necessary, for the maintenance of internal law and order, and especially for the protection of the Holy Places, religious buildings and sites.

Article 16

Emergency powers of the Governor

1. If, in the opinion of the Governor, the administration is being seriously obstructed or prevented by the non-co-operation or interference of persons or groups of persons, the Governor, during the period of the emergency, shall take such measures and enact by order such legislation as he may deem necessary to restore the effective functioning of the administration, and such orders shall have effect notwithstanding anything to the contrary in any legislation in force.

2. The circumstances in which the Governor may have exercised any power conferred on him by this article shall be reported to the Trusteeship Council as soon as may be practicable.

Article 17

Organization of the administration

1. The Governor shall be assisted by a Chief Secretary who shall be appointed by the Trusteeship Council on the recommendation of the Governor.

2. The Governor shall appoint an administrative staff, including an Attorney General, the members of which shall be selected on a non-discriminatory basis for their competence and integrity and, whenever prac-

ticable, from among the residents of the City. Subject to any instructions of the Trusteeship Council and to any legislation of the City, the appointments of members of the administrative staff may be terminated by the Governor at any time.

3. There shall be a Council of Administration consisting of the Chief Secretary and such other principal officers and residents as the Governor may appoint. The Governor may also, if he considers it desirable, add to the Council other persons chosen by him. The Council of Administration shall advise and assist the Governor in the administration of the City.

4. In the performance of their duties, the Governor, the members of the Council of Administration and administrative staff, including members of the police forces, shall not seek or receive any instructions from any Government or any authority other than the Government of the City or the Trusteeship Council.

Article 18

Disqualification from public office

A person shall be disqualified from holding any public office, central or local, in the City, including membership of the Council of Administration and of the Legislative Council, if he holds any office under any other Government: provided that the Governor may appoint to any public office in the City for a limited period any person seconded from the service of another Government.

Article 19

Oaths of office

The Governor, the Chief Secretary, members of the Judiciary, members of the Council of Administration, members of the Legislative Council, members of the special police force and such other officers as the Governor may determine, shall take such oaths and make such affirmations as are specified in the instructions of the Trusteeship Council.

Article 20

Acting Governor

If the office of Governor is vacant, or if the Governor is absent from the City or is unable to exercise his powers or perform his duties, the officer holding substantively the appointment of Chief Secretary, or, if there is no such officer or he is absent from the City or unable to act, such persons as may have been authorized to act in the circumstances by the instructions of the Trusteeship Council, may exercise all the powers and perform all the duties of the Governor so long as the office of Governor is vacant or the Governor is absent from the City or unable to exercise his powers or perform his duties.

Article 21

The Legislative Council

1. A Legislative Council, consisting of a single chamber, shall have power to legislate, consistent with the provisions of this Statute, upon all matters affecting the interests of the City, except such matters as are included within powers specifically granted by this

Statute to the Trusteeship Council or to any other authority.

2. The Legislative Council shall be composed of citizens or residents of the City, twenty-five years of age and over, elected or designated in accordance with the provisions of this article and of article 22 of this Statute.

3. The Legislative Council shall consist of twenty-five elected members and of not more than fifteen non-elected members.

The twenty-five members shall be elected by four electoral colleges: a Christian college, a Jewish college, a Moslem college and a college which shall be composed of the residents of the City who declare that they do not wish to register with any of the other three colleges. The Governor shall make all the necessary arrangements for opening and keeping the electoral registers in each of these four colleges.

The first three colleges shall each elect eight members to the Legislative Council and the fourth college one member.

The non-elected members of the Council shall be designated by the Heads of the principal religious communities of the City: the number of these members representing the Christian religion, the Jewish religion and the Moslem religion being equal. The Governor shall submit to the Trusteeship Council a plan for the number and allocation of the non-elective seats.

4. The legislation of the City may make provisions as to the disqualifications from, election to, and membership of, the Legislative Council, resulting from loss of legal capacity.

5. The legislation of the City shall provide for the remuneration of the members of the Legislative Council.

Article 22

Elections to the Legislative Council

1. The elected members of the Legislative Council shall be elected by residents of the City, twenty-one years of age and over, irrespective of nationality or sex, on the basis of universal and secret suffrage and proportional representation in each electoral college. For this purpose every resident of the City may register with the college of his own community, or with the fourth college; he may be registered at only one college.

2. The legislation of the City shall provide for an electoral law and make provisions regarding disqualifications from voting resulting from loss of legal capacity.

Article 23

Duration of the Legislative Council

1. The term of the Legislative Council shall be four years from the date of its election, unless it is earlier dissolved.

2. If, at the end of a four-year term of the Legislative Council, it is the opinion of the Governor that circumstances are inappropriate for the conduct of a general election, the Legislative Council may vote the

prolongation of its term for a period not exceeding one year. The Governor shall forthwith submit a report to the Trusteeship Council which may issue such instructions as it may deem necessary.

3. If a serious political crisis arises in the City and if, in the opinion of the Governor, the dissolution of the Legislative Council would be justified, he shall report the circumstances to the Trusteeship Council which may, after examining the Governor's report, order such dissolution and at the same time fix a date for holding of new elections.

Article 24

Legislation and resolutions

1. Bills and resolutions may be introduced in the Legislative Council by any member thereof.

2. The Governor, or any officer appointed by him, may make statements or answer questions before the Legislative Council, introduce any bill or resolution and participate without vote in all deliberations of the Legislative Council.

3. A bill adopted by the Legislative Council shall become law only upon promulgation by the Governor.

At any time within a period of thirty days after the transmission to him of any bill the Governor may disapprove the bill if, in his opinion, it is in conflict with the provisions of this Statute or it would impede the Administration of the City or inflict undue hardship on any section of the inhabitants of the City and he shall then inform both the Legislative Council and the Trusteeship Council of the reasons for his disapproval.

If, at the expiration of the period of thirty days, the Governor has not disapproved the bill, he shall forthwith promulgate it as a law.

Article 25

Legislation by order of the Governor

1. At any time when there is no Legislative Council, the Governor may legislate by order which shall have the force and effect of law. All such orders shall be laid before the Legislative Council as soon as may be practicable and shall remain in force until and unless repealed or amended in accordance with the provisions of paragraph 3 of article 24 of this Statute.

2. When the Legislative Council is in session but fails to adopt in time a bill deemed essential to the normal functioning of the Administration the Governor may make temporary orders.

3. The Governor shall forthwith report to the Trusteeship Council any action taken by him in accordance with the provisions of this article and the Trusteeship Council may issue such instructions as it may deem necessary.

Article 26

Standing orders of the Legislative Council

1. The Legislative Council shall adopt such standing orders for the conduct of its business, including the election of a President (who may or may not be a mem-

ber of the Legislative Council), as it may deem appropriate.

2. The Governor shall convene the first session of each Legislative Council and may at any time convene an extraordinary session.

3. Subject to the provisions of article 23 of this Statute, subsequent sessions of the Legislative Council shall be convened in accordance with the standing orders of the Legislative Council.

4. Subject to the provisions of article 23 of this Statute, the Governor shall convene an extraordinary session of the Legislative Council upon the request of a majority of the members.

5. A majority of the members of the Legislative Council shall form a quorum.

6. Decisions of the Legislative Council shall be taken by a majority of those present and voting. Members who abstain from voting shall not be counted as voting.

Article 27

Immunity of members of the Legislative Council

1. No member of the Legislative Council shall be liable to any judicial or administrative penalty, or be called to account in any other way outside the Legislative Council, by reason of anything which he may have said, or of any vote which he may have cast, in the course of his duties as a member of the Legislative Council.

2. No member of the Legislative Council shall be liable during the sessions of the Council to criminal, administrative or disciplinary proceedings, nor shall he be deprived of his liberty without the permission of the Legislative Council: provided that he may be apprehended in the act of committing a crime and detained if his detention is or becomes imperative in the interests of justice, but in any such case his apprehension shall be reported as soon as may be practicable to the Legislative Council and he shall be released without delay should the Legislative Council so request.

Article 28

Judicial system

1. There shall be a Supreme Court which shall consist of such number of judges, not being less than three or more than five, as the Trusteeship Council may determine, of whom one shall be President and shall be styled Chief Justice. They shall be appointed by, and their appointments shall be terminated only by, the Trusteeship Council.

2. The legislation of the City shall provide for an independent judicial system for the City, including such subordinate and other Courts as may be deemed appropriate. Such legislation shall establish the jurisdiction of the Courts and provide for their organization.

3. All persons shall be subject to the jurisdiction of the City, except and in so far as such persons may enjoy immunity as provided for in this Statute.

4. Judicial personnel of subordinate Courts shall be appointed by and may be suspended or dismissed

by, the Chief Justice with the approval of the Governor, in accordance with any instructions of the Trusteeship Council.

5. Subject to the special objectives set out in the preamble to this Statute and to social evolution in the City, the existing status and jurisdiction of religious Courts in the City shall be respected. In the case of any conflict regarding jurisdiction between religious Courts or between religious Courts and civil Courts, the Supreme Court shall consider the case and decide in which Court the jurisdiction shall lie.

6. Decisions by the Supreme Court shall be made by a majority of its members: provided that, if in any case the opinion of the Court be equally divided, the opinion of the Chief Justice shall prevail.

Article 29

Constitutionality of legislation and administrative acts

1. In cases brought before the Courts of the City this Statute shall prevail over any legislation or administrative act. The Supreme Court shall have original and appellate jurisdiction in all cases involving claims that such legislation or act is incompatible with the provisions of this Statute.

2. In any case in which the Supreme Court decides that any legislation or administrative act is incompatible with the provisions of this Statute such legislation or administrative act shall be void and of no effect.

Article 30

Access to and immigration into the City

1. Subject only to the requirements of public order, public morals and public health:

(a) Freedom of entry into and of temporary residence in and of exit from the City shall be ensured to all foreign pilgrims and visitors without distinction as to nationality or faith;

(b) The legislation of the City shall make special provisions to facilitate entry and exit from the City for inhabitants of adjoining areas.

2. Immigration into the City for the purposes of residence shall be controlled by order of the Governor under the instructions of the Trusteeship Council having regard to the absorptive capacity of the City and the maintenance of equality between the various communities.

Article 31

Official and working languages

Arabic and Hebrew shall be the official and working languages of the City. The legislation of the City may adopt one or more additional working languages as may be required.

Article 32

Educational system and cultural and benevolent institutions

1. All persons have a right to education. Education shall be directed to the full physical, intellectual, moral and spiritual development of the human personality and to the strengthening of respect for human rights

and fundamental freedoms. It shall be directed to the promotion of understanding, tolerance and friendship among all national, racial and religious groups. It shall in particular be directed to the furtherance of the activities of the United Nations, to the establishment of peace and to the attainment of the special objectives set out in the preamble to this Statute.

2. Education, in its elementary stages, shall be free and compulsory. In its secondary stages, it shall in so far as may be practicable be free. Technical and professional educational facilities shall be provided in so far as may be practicable and those supported by public funds shall be equally accessible to all on the basis of merit.

3. The City shall maintain or subsidize and supervise a system of primary and secondary education on an equitable basis for all communities in their respective languages and in accordance with their respective cultural traditions: provided that such communities have a sufficient number of pupils to justify a separate school.

4. Subject to the provisions of paragraph 1 of this article and to such educational requirements of a general nature as the legislation of the City may impose, any community or any specific group within any community may maintain its own institutions for the education of its own members in its own language according to its own cultural traditions.

5. Subject to the provisions of paragraph 1 of this article and to the legislation of the City, private or foreign educational establishments may be maintained in the City: provided that existing rights shall continue unimpaired.

6. Educational and cultural establishments, charitable institutions and hospitals already in existence or founded after the coming into force of this Statute shall enjoy the fiscal privileges provided for in paragraph 6 of article 38 of this Statute.

7. At the request of a parent or legal guardian, any child may be exempted from religious instruction in any school supported in whole or in part by public funds.

Article 33

Broadcasting and television

1. Radio broadcasting and television shall be reserved to the City administration and shall be controlled by a Joint Broadcasting Council which shall be appointed by, and shall be responsible to, the Governor and which shall include an equal number of representatives of each of the three principal religions: Christian, Jewish and Moslem.

2. Representatives of the Christian, Jewish and Moslem religions shall have equal opportunities of access to the broadcasting and television facilities of the City.

3. The principle of freedom of expression shall apply to broadcasting, but it shall be the responsibility of the Joint Broadcasting Council to ensure that the radio is used to further the interests of peace and mutual understanding between the inhabitants of the City and of the objectives of this Statute and of the Charter of the United Nations.

Article 34

Economic provisions

1. The plan for the economic and financial organization of the City adopted by the Trusteeship Council in accordance with the provisions of paragraph 4 of article 43 shall form an annex to this Statute.

2. In the economic and social fields the rights and interests of the inhabitants shall be considered as of primary importance. Subject to this provision, all economic, industrial and commercial matters shall be regulated on the basis of equal treatment and non-discrimination for all States, nationals, and companies or associations controlled by their nationals; and an equal treatment and non-discrimination shall be ensured in respect of freedom of transit, including transit and navigation by air, acquisition of property, both movable and immovable, protection of persons and property and the exercise of professions and trades.

Article 35

Budgets

1. The Governor shall be responsible for the preparation of the annual and supplementary budgets of the City and only the Governor or any officer appointed by him shall introduce budgets in the Legislative Council.

2. The financial provision made by the Governor in the budgets for the maintenance of the special police force shall not be altered by the Legislative Council. The Trusteeship Council may determine other services for which the financial provision made by the Governor in the budgets shall not be altered by the Legislative Council.

3. The Governor may authorize, in anticipation of approval by the Legislative Council, expenditure for which there is no provision in the budgets, if in his opinion such expenditure becomes a matter of urgency.

Article 36

Local autonomy

1. Existing local autonomous units and such new local autonomous units as may be created shall enjoy wide powers of local government and administration in accordance with the legislation of the City.

2. The plan for local autonomy adopted by the Trusteeship Council in accordance with the provisions of paragraph 5 of article 43 shall form an annex to this Statute.

Article 37

External affairs

1. Subject to the provisions of this Statute and to the instructions of the Trusteeship Council, the Governor shall conduct the external affairs of the City.

2. The Governor may ensure by means of special international agreements, or otherwise, the protection abroad of the interests of the City and of its citizens.

3. The Governor may accredit representatives to foreign States for the protection of the interests of the City and its citizens in those States.

4. Representatives may be accredited to the Governor by any State if he so permits.

5. The Governor, on behalf of the City, may sign treaties which are consistent with this Statute and shall adhere to the provisions of any international conventions and recommendations drawn up by the United Nations or by the specialized agencies referred to in article 57 of the Charter of the United Nations which may be appropriate to the particular circumstances of the City, or would conduce to the achievement of the special objectives set out in the preamble to this Statute.

6. Such treaties and international undertakings entered into by the Governor shall be submitted for ratification to the Legislative Council. If the Legislative Council does not ratify any such treaties or international undertakings within six months of the date of signature by the Governor, the matter shall be referred to the Trusteeship Council which shall have the power to ratify them.

7. Foreign Powers shall enjoy immunities no less than those in force on 29 November 1947 in respect of their property within the City.

Article 38

Holy Places, religious buildings and sites

1. The protection of Holy Places, religious buildings and sites shall be the special concern of the Governor.

2. The Governor shall decide any question which may arise as to whether any place, building or site, not hitherto regarded as a Holy Place, religious building or site, is to be regarded as such for the purpose of this Statute. For the purpose of deciding any such question, the Governor may appoint a Committee of Inquiry to assist him.

3. If any dispute arises between different religious communities or between different confessions and faiths in connexion with any Holy Place, religious building or site, the Governor shall decide on the basis of existing rights. For the purpose of deciding any such dispute, the Governor may appoint a Committee of Inquiry to assist him. He may also, if he shall deem fit, be assisted by a consultative council of representatives of different denominations acting in an advisory capacity.

4. At the request of any party to a dispute under paragraphs 2 or 3 of this article, the Governor shall seek an advisory opinion of the Supreme Court on points of law, before he takes a decision.

5. If at any time it appears to the Governor that any Holy Place, religious building or site is in need of urgent repairs, he may call upon the community or denomination or section of the community concerned to carry out such repairs. If the repairs are not carried out, or are not completed within a reasonable time, the Governor may arrange for repairs to be carried out or completed and the expenses of so doing shall be a charge on the revenues of the City but may be recovered from the community or denomination or section of the community concerned, subject to existing rights.

6. No form of taxation shall be levied in respect of any Holy Place, religious building or site which was exempted from taxation of that form on 29 November 1947. No change in the incidence of any form of taxation shall be made which would either discriminate between the owners or occupiers of Holy Places, religious buildings and sites, or would place such owners or occupiers in a position less favourable in relation to the general incidence of that form of taxation than existed on 29 November 1947.

7. The Governor shall ensure that the property rights of churches, missions and other religious or charitable agencies shall be confirmed and respected. He shall ensure, further, that all such property which, since the outbreak of the Second World War had been seized without equitable compensation but which has not already been returned or, for one reason or another, could not be returned to its original owners, shall either be restored to them or be transferred to another church, or mission or other religious or charitable agency representative of the same confession.

8. The Governor shall by order ensure that:

(a) His decisions taken in accordance with the provisions of paragraphs 2 and 3 of this article are carried into effect and that provision is made for the recovery of sums recoverable in accordance with the provisions of paragraph 5 of this article;

(b) Existing rights in respect of Holy Places, religious buildings and sites shall not be denied or impaired;

(c) Subject to the requirements of public order, public morals and public health, free access is maintained to Holy Places, religious buildings and sites and that free exercise of worship therein is secured in conformity with existing rights;

(d) Holy Places, religious buildings and sites are preserved;

(e) No act is committed which may in any way impair the sacred character of Holy Places, religious buildings or sites;

(f) Provisions of this article generally, and the special objectives set out in the Preamble to this Statute in so far as they relate to Holy Places, religious buildings and sites, are carried into effect.

9. An order made in accordance with the provisions of paragraph 8 of this article may contain penal provisions and shall have effect notwithstanding anything to the contrary in any legislation.

10. The Governor shall transmit a copy of every order made in accordance with the provisions of paragraph 8 of this article to the Trusteeship Council as soon as may be practicable and the Trusteeship Council may give such instructions to the Governor in relation thereto as it may deem fit.

Article 39

Protection of antiquities

Legislation of the City shall provide for the protection of antiquities.

Article 40
Capitulations

Foreign Powers whose nationals have in the past enjoyed in the City the privileges and immunities of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by capitulation or usage in the Ottoman Empire, are invited to renounce, if they have not already renounced, any right pertaining to them as regards the re-establishment of such privileges and immunities in the City. Any privileges and immunities which may be retained shall be respected.

Article 41

Entry into force of the Statute

This Statute shall come into force at a date to be determined by a resolution of the Trusteeship Council.

Article 42

Re-examination of the Statute

1. This Statute shall remain in force, in the first instance, for a period of ten years, unless the Trusteeship Council amends it before the expiration of this period.

2. On the expiration of this period of ten years, the whole Statute shall be subject to re-examination by the Trusteeship Council. The residents of the City shall then be free to express by means of a referendum their wishes as to possible modifications of the regime of the City. The Trusteeship Council shall in due course lay down the procedure by which this referendum shall be conducted.

Article 43

Transitory provisions

1. Flag

Unless the Legislature of the City decides otherwise, the flag of the United Nations shall be flown from official buildings.

2. First elections to the Legislative Council

The first elections of members to the Legislative Council shall be held as soon as possible after the entry into force of this Statute at such date and in such manner as shall be provided by order of the Governor in accordance with the provisions of articles 21 and 22 of this Statute and of the instructions of the Trusteeship Council.

3. Provisional President of the Legislative Council

The Provisional President of the Legislative Council shall be appointed by the Governor and shall remain

in office until the election of a President by the Legislative Council.

4. Economic provisions

The Governor shall take prompt steps to formulate, with the advice and help of such experts as may seem to him desirable, the economic and financial principles upon which the government of the City is to be based. In doing so he shall take into consideration the desirability of meeting the costs of the administration of the City from rates, taxes and other local revenues, and the possibility that any advances from the United Nations towards such expenditure will be in the form of loans. The Governor, within six months of the date of his appointment, shall submit to the Trusteeship Council for its consideration a plan for the economic and financial organization of the City.

Pending a decision by the Trusteeship Council in this matter, the Governor may temporarily take such economic and financial measures as he may deem necessary for the proper administration of the City.

Commercial concessions, or concessions in respect of public services, granted in the City prior to 29 November 1947 shall continue to be valid according to their terms, unless modified by agreement between the Governor and the concession holder.

5. Local autonomy

The Governor, after consultation with the Legislative Council and, if possible, within six months of the date of his appointment, shall submit to the Trusteeship Council for its consideration a plan for dividing the City into local autonomous units and for the allocation of powers between the City authorities and the authorities of those autonomous units.

6. Continuity of legislation

The legislation in force in the City on the day preceding the termination of the Mandate, in so far as it is not inconsistent with the provisions of this Statute, shall be applicable in the City until such time as it may be amended or repealed by legislation.

7. Refugees

Having regard to any decisions or recommendations which have been, or may be, made by organs of the United Nations or to any agreements which have been accordingly concluded between the States concerned regarding the problem of the Palestine refugees, the Governor of the City, as soon as this Statute enters into force, shall facilitate the repatriation, resettlement and economic and social rehabilitation of persons who, on 29 November 1947, were ordinarily resident in the City and have left the City as refugees, as well as the payment of any indemnities which may be due to them.

Annex III

REPORT BY THE PRESIDENT OF THE TRUSTEESHIP COUNCIL ON THE MISSION ENTRUSTED TO HIM BY VIRTUE OF RESOLUTION 232 (VI) OF THE TRUSTEESHIP COUNCIL OF 4 APRIL 1950

The Trusteeship Council, in its resolution of 4 April, requested its President: (1) to transmit the text of the Statute for Jerusalem to the Governments of the two States at present occupying the area and City of Jerusalem; (2) to request from the two Governments their full co-operation in view of paragraph II of the General Assembly resolution of 9 December 1949; (3) to report on these matters to the Trusteeship Council in the course of its seventh regular session.

In accordance with these instructions of the Trusteeship Council, I transmitted the text of the Statute for Jerusalem to the Government of Israel and Jordan on 6 April and requested them to send a representative to Athens to consider with me the conditions for the implementation of the second paragraph of the above-mentioned Trusteeship Council resolution. The proposed meeting was to be held on 17 April.

The Government of Israel immediately acknowledged receipt of this communication and informed me through Mr. Ginossar, its diplomatic representative to the Italian Government, that it would be prepared to discuss the question referred to in paragraph II of the General Assembly resolution with me at Athens, but that the proposed place would hardly be propitious for a discussion of this kind, which would be greatly facilitated by a direct exchange of views between the Government of Israel and the President of the Trusteeship Council. His Excellency Mr. Sharett, Minister of Foreign Affairs of Israel, proposed that I should come personally to Tel-Aviv to consult with him, and I immediately stated my willingness to accept this kind invitation, subject to the reply that I was expecting from the Government of the Hashimite Kingdom of the Jordan.

As I had not yet received this reply at Rome on 15 April, I got into touch with the Minister of the Hashimite Kingdom of the Jordan in that city, Mr. Edmond Roch, who had represented his country on the Trusteeship Council during the debates concerning the internationalization of the Holy City at our last session at Geneva, and I asked him to make representations to his Government in order to hasten a decision on the steps it wished to take as a result of my *démarche*. During the fortnight between my first interview with Mr. Edmond Roch and my departure from Rome, I had several more interviews with him and urged him to draw his Government's serious attention to the strangeness of a silence which would make it impossible for me to proceed with the task entrusted to me by the Trusteeship Council. I have no doubt that the representative of the Hashimite Kingdom of the Jordan at Rome, to whose understanding and courtesy I wish to pay a most sincere tribute, duly informed his Government of my repeated *démarches* and of my suggestions. Unfortunately, these remained unavailing,

and I have to state with the deepest regret that up to yesterday, when my term as President of the Trusteeship Council came to an end, the Government of the Hashimite Kingdom of the Jordan had not seen fit to break its silence.

In those circumstances, I considered it preferable to refrain from going to Palestine, whither I was to be accompanied by Mr. Victor Hoo, Assistant Secretary-General of the United Nations, who assisted me throughout my mission and whose experience was of great value to me. There would have been obvious disadvantages in my only being able to confer on the spot with the Israeli authorities, while the other party concerned avoided any exchanges of views.

I therefore pursued my consultations with the Government of Israel alone, first at Rome through the aforementioned Minister of Israel and with a special representative, Mr. Gideon Raphaël, member of the Israeli permanent delegation to the United Nations, whom his Excellency Mr. Sharett had kindly sent to me; then at Paris, through the Israeli Legation; and finally at New York, where, after my last consultations with Mr. Eban, the latter sent me, on 26 May, the memorandum which I am about to communicate to you.

Throughout these delicate negotiations, the Government of Israel showed a spirit of conciliation which led it to submit to the Trusteeship Council certain new proposals which, although they are far removed from the terms of General Assembly resolution of 9 December 1949 and of the Statute adopted by the Trusteeship Council on 4 April last, nevertheless represent a considerable advance towards a settlement of the various aspects of the problem of Jerusalem and the Holy Places in comparison with the proposals submitted to the General Assembly by the Government of Israel last autumn. For my own part, I regret my inability to obtain more concrete results from the two States which now exercise *de facto* authority over the City and area of Jerusalem: the results of the mission entrusted to me by the Trusteeship Council have proved disappointing and the implementation of the Statute would seem to be seriously compromised under present conditions. But at least there is still ground for hope that the understanding and benevolent attitude of one of the two Governments concerned towards the legitimate demands of all the parties concerned for a just and therefore a lasting solution of the difficult problem that the Trusteeship Council has honestly endeavoured to solve in accordance with the General Assembly's instructions will finally persuade the other Government, which possesses virtually all the Holy Places, to take the wishes of the United Nations into consideration and to collaborate loyally with it in ensuring justice, peace and permanent security in the City of Jeru-

salem, as well as the protection of and free access to the Holy Places.

(Signed) Roger GARREAU

Enclosure

LETTER DATED 26 MAY 1950 ADDRESSED TO THE PRESIDENT OF THE TRUSTEESHIP COUNCIL BY THE PERMANENT REPRESENTATIVE OF ISRAEL TO THE UNITED NATIONS

1. I have the honour to enclose herewith a memorandum of the Government of Israel on the question of Jerusalem. This memorandum is submitted in reply to your letter of 6 April 1950, enclosing the text of a Statute for Jerusalem approved by the Trusteeship Council on 4 April 1950.

2. During the sixth session of the Trusteeship Council my Government expressed its readiness "to explore with the Council and with other parties concerned any avenue which may lead to the effective fulfilment by the United Nations of its responsibilities for the Holy Places". It was in this spirit that the Israel delegation participated in the work of the Trusteeship Council in Geneva. In further pursuit of its desire to seek an agreed solution within the framework of the United Nations, my Government was glad to respond to Your Excellency's invitation to consult with you in Europe. The Minister of Israel in Rome was instructed by the Government of Israel to keep Your Excellency informed of all developments in our thinking on the substance of the question and on the procedural steps which we envisaged. On 20 April an emissary from the Government of Israel, Mr. Gideon Rafaël, called on you officially in Rome to convey the compliments of the Israel Foreign Minister and to acquaint you with such progress as we had made in formulating the principles for a solution.

3. Moreover, on 17 April the Government of Israel, taking note of the functions which the Trusteeship Council had allotted to its President in its resolution of 4 April 1950, and being keenly aware of the importance of first-hand knowledge of the current situation in Jerusalem, extended to you a cordial invitation to visit Israel for the purpose of consultations with the Government and a direct view of the present Jerusalem situation. My Government regrets that this visit did not materialize, principally, we understand, owing to the lack of a similar readiness on the Arab side.

In this connexion I would also express my Government's regret that no member of the Trusteeship Council found it possible to accept its invitation to visit Jerusalem for a first-hand study of the position during the Council's recess. The fact that the Statute cannot be implemented, while the proposal herewith outlined by my Government is capable of swift realization, could have been tested most convincingly by such a direct survey.

4. The Government of Israel, earnestly desiring to secure adequate and effective protection of the Holy Places, will continue its efforts to assist the United Nations to reach an agreed solution. For that purpose it now offers the enclosed memorandum for the study of all interested parties and authorizes me to be at the

Council's disposal for any clarification that may be required.

(Signed) A. S. EBAN
Permanent Representative of
Israel to the United Nations

THE QUESTION OF JERUSALEM

Memorandum submitted by the Government of Israel to the Trusteeship Council on 26 May 1950

I

Introduction

1. The Government of Israel has given careful consideration to the text of the Statute for Jerusalem approved by the Trusteeship Council on 4 April 1950 (T/592) and to the resolution of the Trusteeship Council adopted on the same day (T/564).

2. This Government will offer its full co-operation in seeking and implementing a solution of the Jerusalem question whereby the responsibility of the United Nations for the Holy Places may be reconciled with the freedom and independence of the City and its inhabitants. At the same time the Government of Israel regards the consent of the people of Jerusalem as indispensable to the effective functioning of the City's institutions. The right of a mature population to select and maintain its own government cannot be challenged by any consistent adherent of democratic principles. Moreover, the preservation in Jerusalem of a regime based on the initiative and consent of its own population is not only an unassailable political ideal; it is also a dictate of practical statesmanship, with a direct bearing on the issue of implementation. The idea that any regime for the protection of religious interests can endure amidst a discontented, aggrieved and turbulent population will be instantly rejected by any serious mind. Religious peace cannot be secured by political suppression. Thus, considerations of justice and of practicability combine to make the will of Jerusalem's population the essential basis for the City's political institutions.

3. In Jerusalem, the Holy Places of the three world religions are gathered in a unique concentration. These sanctuaries command a world-wide reverence, far transcending their purely local environment. The protection of the Holy Places and of free access thereto, and the maintenance of existing religious rights, constitute an international trust for which the responsibility of the United Nations should be universally recognized. The Government of Israel believes that the United Nations should be enabled effectively to exercise that responsibility, which should also be expressed in appropriate juridical form.

4. Accordingly, any solution which the Government of Israel can command or support must simultaneously fulfil two objectives: it should satisfy the principle of United Nations responsibility for all matters directly affecting the Holy Places and free access thereto; and it must leave the population of the City free to express their ineradicable national loyalty through the democratic institutions which they have helped to create in Jerusalem and in their own State.

Political effects

5. The Government of Israel has examined the Statute for Jerusalem in the light of these two objectives. It has given special attention to the political institutions described in the Statute and to their potential effect on the life of New Jerusalem. It will be recalled that the Statute was originally drafted in 1948 in order to provide the immediate succession to an expiring mandate, at a time when the people of Jerusalem had not yet integrated their political life into that of a sovereign State commanding their entire allegiance. At that time, Jerusalem was completely detached from the territory of the future Jewish State and was surrounded by Arab territory on all sides. Apart from the basic question of the Holy Places, the problem of affording effective protection to 100,000 Jews had to be faced by the Statute; indeed, it was this consideration which led to the proposal for internationalizing a large secular area apart from the Holy Places. Today, however, these conditions no longer hold good. The Statute must now be judged, both in principle and in terms of implementability, by its effect on an area totally and willingly bound up with the life and sentiment of the State of Israel. Jerusalem now has its own institutions of government, security and law—institutions deeply rooted, effectively administered and tenaciously upheld. It is now impossible to establish a governorship or a legislature, a council or a court, without first disrupting institutions already functioning by popular consent, and severing ties and connexions firmly cemented. For, in sharp contrast to its position in 1947, Jewish Jerusalem is today firmly linked to the State of Israel by a broad territorial bridge and forms an integral part of it in the physical and geographical sense, as well as in its constitutional allegiance.

6. Thus, the implementation of the Statute would involve the United Nations in the process of destroying free and stable democratic institutions in Jerusalem as a prelude to the imposition, against the popular will, of an authoritarian regime introduced from outside. The Trusteeship Council, having been unable two years ago to provide Jerusalem with security, administration and subsistence when they were urgently needed, would now come on the scene to liquidate the security, administration and subsistence which the people of Jerusalem and of Israel have established amidst cruel suffering and sacrifice of life.

7. Implementation of the Statute would have drastic effects on the life of every man and woman in Jewish Jerusalem. On the day the Statute came into effective force, all the sources and centres of authority in the City would lose their power. All threads of administrative, fiscal and judicial connexion would be severed. All existing courts would lose their jurisdiction. One hundred and ten thousand Israel citizens would awake that first morning to find themselves disfranchised and dispossessed of their fundamental political rights. In retaining their national allegiance they would become foreigners in their own City. The flag of their people would no longer be there as the focus of their loyalty or inspiration. Political barriers would arise outside their City to separate and mark them off from their own kin in Israel. A *numerus clausus*, reminiscent of the practices of racial discrimination, would prevent the Jews of Israel from freely taking up residence in

the very City which the Jewish people immortalized in this history of mankind. From having complete control of the life of the New City which they had built and defended with their own hands, the Jewish population would be reduced to the level of having no power or authority whatever in the affairs of Jerusalem. For, under the operation of the Statute, the Jews of the New City, who form the considerable majority of the entire population of Jerusalem, would now have less than one-third of the representation in an impotent and uninfluential "Legislative Council" (article 21). Faced by this assault on their political liberties, the Jews of Jerusalem would simultaneously find themselves cut off from the jurisdiction of the State which provides their very subsistence. To complete the story of this political and economic mutilation, they would also be stripped of their vital defence. Their lives would suddenly become subject to the arbitrary enactments of a constitution which was neither formulated by them nor evolved out of their consent and experience. For the Statute itself, with its omnipotent Governor and its artificially constituted Legislative Council, is modelled precisely on the absolutist forms of government which used to be applied in backward regions in the days before the elementary principles of self-government began to secure a foothold even in the dependent areas of the world.

8. The Government of Israel does not know of any standard of international ethics whereby this political upheaval in Jerusalem can be justified, or of any method whereby it can be implemented. The fact that scarcely a house or a street in the Israel part of Jerusalem even existed eighty years ago makes it absurd to contend that this area is of such venerable historical significance that it must be withdrawn from the hands of the people which has created it out of a wilderness. Of the more than thirty sites marked as Holy Places in the authorized map prepared by the United Nations for the Trusteeship Council (United Nations Map No. 229, November 1949) only two—at the very extremity of the New City—fall within the Israel zone of Jerusalem. Thus, the elimination throughout this large and heavily populated urban area of all its elected institutions and political rights and its forcible severance from the State to which it belongs cannot be justified in terms of any universal or religious characteristics affecting the New City.

9. It is a patent fact that the population of Jerusalem is opposed—as would be the people of any other city—to a project for uprooting its institutions and separating it from the State with which it is identified in all its activity and sentiment. This fact alone destroys the moral validity and the practical relevance of the Statute. It is true that the proposed Governor is equipped with a police force of 500 men for the imposition upon the City of a regime which the entire population is unwilling to recognize. Yet this measure, far from solving any problem, serves only to emphasize the unimplementability of the Statute. For a police force can only function in civilized societies as the agent of the entire community against a few individuals who defy its recognized law. No police force can ever be effective if it stands in isolation from or in opposition to the majority will of the community. Thus, the political regime of the Statute, lacking any

local support, can neither be implemented by consent nor be enforced by any available means.

Economic effects

10. During the sixth session of the Trusteeship Council the representative of Israel explained in detail the effects of the Statute upon the economic life of the City (T/SR.260). Jewish Jerusalem, as an integral part of the Israel fiscal and economic systems, depends upon the State for its food and water, its communications, its educational, health and social services, its development budget, its subsidies, its foreign currency assets, in short for all the sources of its subsistence and employment. The City is not even remotely self-supporting, either agriculturally or industrially, and would never in all its history have been able to maintain its population, except as part of a wider and more productive political unit in the resources of which it could proportionately share. In 1947 it was proposed to maintain the economic integration of Jerusalem with its hinterland by the operation of the Economic Union of which the State of Israel was to be the only solvent partner. The Economic Union is no longer feasible, as the resolution of the General Assembly on 9 December 1949 admits; and the Statute is now drafted on the assumption of Jerusalem's complete separation from the jurisdiction and economic influence of Israel. Thus all the arteries which bring the life-blood to the heart of Jerusalem are now to be severed by the creation of the *corpus separatum*. The City is to become like a diver whose air line is cut. Yet the Statute is completely devoid of a single provision for replacing the manifold sources of livelihood which Jerusalem loses by its severance from the State of Israel. The Statute legislates for Jerusalem's economic and financial isolation without even beginning to consider how an area with a population of 160,000 can subsist for a single day in a state of land-locked economic isolation. Article 34 states frankly that the economic implications of a *corpus separatum* have not been faced. The Israel arguments were not met in any respect. The Statute would undoubtedly involve economic strangulation as well as political disintegration.

Security effects

11. The security of Jerusalem is at present governed in practice and in international law by the Israel-Jordan General Armistice Agreement concluded at the behest of the United Nations, under which Israel exercises responsibility for the maintenance of order in Jewish Jerusalem and for the defence of that area against external attack. Thus, provisions of the Statute, such as article 7 imposing the demilitarization of the area, are in conflict with this Agreement, which may not be altered in any respect except by negotiations between the parties. It is no contribution to Jerusalem's security to undermine the authority of hard-won agreements which have enabled the City to regain a large measure of normality and which have made possible substantial withdrawals and reductions of troops. Apart from formal considerations, the withdrawal of Israel's troops from the New City of Jerusalem, even if accompanied by a simultaneous withdrawal of the Arab Legion from the Old City—itself a highly improbable contingency—would not result in an equal security for both parts of the City. New Jerusalem would be left surrounded on three sides by Arab forces; and thus

the exact situation which nearly brought about the extinction of the City and its Jewish inhabitants in the spring of 1948 would be reproduced.

Juridical aspects

12. The Statute presumes that the General Assembly has power, in pursuance of its own resolution, to impose its administrative and executive control over the Jerusalem area, irrespective of the wishes of its population or the consent of a government now responsible for its administration. The Charter of the United Nations offers not the slightest support for any such legal theory. The conditions in which the General Assembly, through the Trusteeship Council, may assume the administration of any area are exhaustively laid down in Chapter XII of the Charter. Whatever its position in 1947, when it was a "territory under mandate", Jerusalem no longer falls into any of the categories defined in Article 77, to which any form of international trusteeship may legally be applied. Moreover, the procedures of agreement required by Articles 79 and 81 have not been applied and are not feasible in this case. Apart from being legally ineligible for the operation of a trusteeship regime in the sense of Article 77, Jerusalem is, by its very nature, the exact antithesis of any territory to which any system of tutelage may properly apply. For the object of the Trusteeship System is to promote the advancement of backward territories towards self-government, and not to effect the transformation of mature and independent democracies into subject areas. Thus, the letter of the Charter, as well as its fundamental spirit, is subjected to comprehensive violation by this unconstitutional proposal.

Resolution of the Trusteeship Council

13. The Government of Israel has pointed out on every suitable occasion these objective difficulties which render the Statute incapable of implementation, and is therefore not in any degree responsible for the insoluble deadlock which is inherent in the Statute. Indeed, there is a clear disparity between the Statute itself and the resolution adopted by the Trusteeship Council on 4 April 1950. The Statute allocates no functions or responsibilities to Israel at all. Indeed, it declines even to mention Israel's existence and requires in effect that the Government of Israel be disengaged from anything affecting the life of Jerusalem. The suggestion that Israel is nothing to Jerusalem and Jerusalem is nothing to Israel may appear fantastic; yet this bewildering thesis is explicitly upheld by the Statute. In these circumstances, it is difficult to understand what is meant by inviting Israel's "full co-operation", in the Trusteeship Council's resolution of 4 April 1950. On the one hand, the Statute requires the complete disassociation of Israel from the life of Jerusalem and implies that it is the duty of the inhabitants of Jerusalem to ignore Israel's will or authority. On the other hand, the Trusteeship Council invites Israel's "full co-operation" in its task. Surely the consequences of the Statute must be faced and one cannot have it both ways. If Israel is to be dispossessed of legal and political power in the City, it obviously cannot be asked to exercise its influence or authority with the population of Jerusalem, should the latter be indisposed to accept the Statute. It is an axiom that Israel cannot be regarded as a

factor in the implementation of a regime based on the disappearance of its own authority. The Trusteeship Council must alone confront the sentiment of the population of Jerusalem and estimate its chances of imposing upon tens of thousands of people a regime to which they are plainly opposed.

14. Since the Statute would plunge Jerusalem into political suppression and economic decline, while causing grave disturbance of its religious and secular peace and involving a manifest breach of the Charter, the Government of Israel is amongst those who share the view that it is inherently unimplementable.

II

An alternative proposal

15. Faced with this situation, in which the Statute is doomed to fail through its own defects of principle and practice, the Government of Israel has been concerned to examine whether the basic objectives of the United Nations in Jerusalem may yet be rescued from their association with an extremist and illusory scheme. This Government has reached an affirmative conclusion. Everything that is truly universal and international in Jerusalem can be brought within the purview of direct United Nations responsibility without any disturbance of the City's political freedoms or of its established institutional life.

16. The real objective of the international community in Jerusalem is the protection of the Holy Places by the direct exercise of international responsibility, not the imposition of international rule on a city, a territory or a population. It is needless to emphasize that the problem of the Holy Places is not only a problem of preservation but also one of access. Closely linked with the issues of preservation and access, there is the question of "existing rights" hallowed by the traditions and compacts of succeeding generations. High central institutions of many faiths, including four Patriarchates, have their abode in Jerusalem in close proximity and relation to the Holy Places themselves. Thus the preservation of the Holy Places, the assurance of facilities for access and pilgrimage, the peaceful settlement of religious disputes, the maintenance of existing rights under international sanction, and the unhampered pursuit of the religious life revolving around the Holy Places are all matters of recognized international concern. If the United Nations brings these vital matters under its active and direct control, it will thereby achieve the fullest expression of universal responsibility for Jerusalem's religious associations ever recorded.

17. The Government of Israel believes that the responsibility of the United Nations should operate in this universal religious domain leaving the political and secular life of the City to the free determination of its people, as democratic principle requires. The experience of three years has proved that extreme doctrines of internationalization, excluding populations and areas from their natural allegiance, defeat their own purpose because they cannot be fulfilled, with the result that the United Nations remains absent even from its own recognized sphere of responsibility.

18. Since nearly all the Holy Places in Jerusalem are located within a small area of one and one-half

square miles within the Walled City and its immediate environs, the Government of Israel and also many leading Christian authorities have from time to time considered the question of an international regime confined to that limited area, in the administration of which the three monotheistic faiths should have an acknowledged status. This project has, however, encountered insurmountable obstacles in view of the opposition of the Hashimite Kingdom of the Jordan, which occupies the entire area of the Old City. The Government of Israel is ready even now to co-operate in the creation of an international regime of such limited territorial scope, but it must point out that the practicability of such a solution depends entirely on the Hashimite Kingdom of the Jordan.

19. Moreover, the Government of Israel recalls that the Western Wall (Wailing Wall), which is the main Jewish shrine, hallowed by religious associations for thousands of years, as well as two other places holy to Jews and held in deep reverence by them over countless generations—Rachel's Tomb near Jerusalem and the Cave of Machpela in Hebron—are also in territory controlled by Jordan. Under any international arrangement, Jewish rights regarding these places and access thereto must be fully and effectively safeguarded.

20. In view of all these difficulties, the Government of Israel has consistently upheld the only practicable alternative principle, namely, the direct application of international responsibility, not to any continuous area, but to the Holy Places themselves. At the fourth session of the General Assembly in 1949 this Government offered to conclude an agreement whereby the United Nations would be represented in Jerusalem by a representative accredited to the Governments concerned for the purpose of ensuring the protection of the Holy Places and of free access thereto. During the sixth session of the Trusteeship Council the representative of Israel affirmed his Government's readiness "to explore with the Council and with other parties concerned any avenue which may lead to the effective fulfilment by the United Nations of its responsibility for Holy Places". The Israel delegation took an active part in that stage of the Council's deliberations which culminated in the drafting of article 38 of the Statute, dealing with "Holy Places, religious buildings and sites". The Government of Israel has also given consideration to the proposals submitted to the General Assembly by other delegations which sought various means of establishing United Nations control in the Holy Places. Draft resolutions or suggestions in this sense were submitted to the fourth session by the delegations of Bolivia, Cuba, the Netherlands, Sweden and Uruguay.

21. As a result of this mature consideration and out of a desire to satisfy universal religious sentiment, the Government of Israel is ready to give its earnest attention to any plan which would, in suitable form, make possible effective United Nations control of the Holy Places in Jerusalem. For its own part, the Government of Israel would now propose a plan which takes into account article 38 of the Statute and the spirit of the draft resolutions sponsored by certain other delegations in the General Assembly. The main features of this plan would be as follows:

(a) A Statute should be adopted whereby the rights of the United Nations in respect of the Holy Places in

Jerusalem would be derived directly from the General Assembly and accepted by all parties concerned. The authority of the United Nations in the Holy Places would thus take statutory form and not depend upon a contractual agreement, as in the Israel plan submitted to the fourth session.

(b) There should be appointed a United Nations representative, or other such organ as may be found appropriate, for the discharge on behalf of the United Nations of the functions prescribed regarding the Holy Places in Jerusalem. This representative or organ should constitute an independent authority deriving its powers solely and exclusively from the General Assembly itself and exercising those functions in the international right without dependence on any individual Government or accreditation thereto.

(c) The United Nations representative thus appointed (or the United Nations organ thus set up) should carry out the following main functions in respect of the Holy Places in Jerusalem: viz., supervision of their protection; adjudication of disputes between communities as to their rights in the Holy Places; the maintenance of existing rights in connexion with the Holy Places; the initiation of their repairs; assurance of their exemption from taxation; questions relating to the maintenance of free access subject to the requirements of public order; facilitation of pilgrimage movements; issuing of reports to the appropriate United Nations organs on all the above matters. This list of matters covers practically all the functions enumerated with respect to the Holy Places and religious matters in the Statute (article 38).

(d) The definition of Holy Places as laid down and applied up to the termination of the Mandate shall continue to prevail (Cf. United Nations Map No. 229, November 1949). All Governments and parties concerned should negotiate on the definition and demarcation of these places in order to achieve agreement on the exact sites within which the above-mentioned functions of the United Nations representative shall operate.

(e) Apart from their statutory sphere of authority concerning the Holy Places in Jerusalem, the United Nations representative or organ could negotiate agreements with both Governments concerned, in conformity with the resolutions of the General Assembly, for the protection of Holy Places located outside the City of Jerusalem. This would follow the principle laid down in article 13(4) of the Statute, for Holy Places outside Jerusalem. The United Nations representative or organ could also negotiate, if required, on behalf of any Church organization submitting views or claims with respect to religious buildings, institutions or property.

22. Apart from the specific functions allotted by the Statute to the United Nations representative or organ, it would be appropriate for the Governments concerned to signify their recognition of universal religious interests in Jerusalem and elsewhere in their territories by voluntarily giving certain undertakings. Thus they might pledge themselves to:

(a) Observe human rights and fundamental freedoms, in particular "freedom of worship and freedom of education".

(b) Respect the immunity and sanctity of the Holy Places.

(c) Guarantee free access to Holy Places in their territories and facilitate movements of pilgrimages.

(d) Observe and maintain all the existing rights of churches and religious foundations, especially those concerned with Holy Places in their territories.

(e) Levy no tax in respect of any Holy Place which was exempt from such taxation on 14 May 1948.

(f) Co-operate fully and in good faith with the United Nations representative or other organ in the exercise of all the functions allotted to them (as enumerated in paragraphs 21 above).

These undertakings would be complementary to the functions exercised statutorily by the United Nations representative with respect to the Holy Places in Jerusalem, as laid down in paragraph 21.

23. In outlining these broad principles for a solution, the Government of Israel reserves the right to make more detailed proposals in appropriate form at any future meetings of the General Assembly at which these matters may be discussed. The two chief merits of this proposal are on the levels of principle and implementability. Under a plan elaborated on those lines, the United Nations would exercise full jurisdiction in respect of matters which are the object of international and religious concern; and all this would be achieved without the drastic process of political and economic disintegration envisaged by the Statute, and without any violence to democratic principle or to the provisions of the Charter. At the same time, the simplicity of these arrangements and the degree of consent which would be confidently anticipated for them would secure their swift and certain implementation. Instead of sterile resolutions, fraught with political bitterness and resulting in no effective action in its own sphere of responsibility, the United Nations could achieve by the end of this year an adequate fulfilment of its recognized responsibilities.

24. The implementation of this proposal would also be a significant landmark in the institutional development of the United Nations and in the application of international authority. Jerusalem would become the first place in the world where the United Nations would be permanently and directly represented for the purpose of carrying out functions on behalf of the international community.

25. The Government of Israel hopes that these proposals, which reconcile all legitimate interests, may assist the United Nations to reach a solution which could be carried into immediate effect in a spirit of harmony and consent.

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