

Will '94 Be '49 All Over Again?

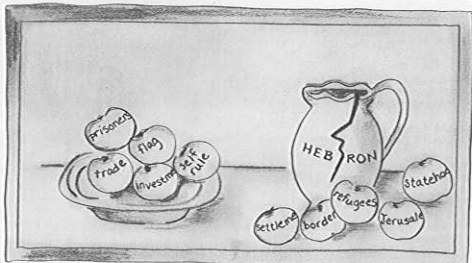
By Elmer Berger

A short time back, I was speaking with a young friend who had just been made a junior executive in one of America's mid-sized conglomerates. I asked him what his new duties were. "I am," he said, "chairman of a problem solving committee."

"And what," I countered, "do you do in a problem solving committee?"

With impeccable logic, he replied, "First, we identify the problem."

At home that night, my wandering review of the day's events recalled this conversation and I thought, "It might have stimulated further conversation had I asked my friend what problem his committee was discussing. And, as late-in-the-day, unfocused thoughts sometimes do, this mental meandering drifted to my own half-century-plus interest in the Middle East, particularly in the fate of its 2,000,000 displaced Palestinians. Most of the world has recognized the claims of these people to national dignity and sovereignty on a greatly diminished portion of their indigenous patrimony. Yet, to date, neither the old League of Nations nor its successor United Nations has effectively mustered the necessary pressure, political or military, to translate this consensus into a universally recognized, national geopolitical reality.



STILL LIFE

PALESTINE

1994

And, indeed, as my stream of consciousness flowed on, it came to the more disciplined parts of my brain that I have asked myself about this anomaly. Often, in fact, I had thought of Hannah Arendt's profound study, "The Origins of Totalitarianism," in which the brilliant author explains, with the aid of an onion, how tyrannies come to power. To discover the root of evil, it is necessary to peel the onion, layer-by-layer, until the edible part appears.

It is easier to write this figure of speech than to apply it to the near-century history of the "Palestine Problem." But the effort is perhaps justifiable if for no other reason that, so far, most efforts by partisans in the

Palestine controversy begin with a point in history which best accommodates their particular historiography. And, I believe, the effort is relevant. For unless we know why we failed to make peace in 1920 or 1949, we run the risk of making the same mistakes in 1994.

Let me also add that my effort to peel away the onion is not accompanied with any pretensions to superiority or greater authority than other analyses. Like all history it is vulnerable to much, or little, subjectivity emanating from the experience, the training and the accumulated human predilections of the recording historian.

(continued on page 3)

Elmer Berger lives in Florida, where the University Press of Florida published his latest book, "Peace for Palestine: First Lost Opportunity".

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About This Issue

In the forward to Dr. Elmer Berger's new book, "Peace for Palestine: First Lost Opportunity," Professor Don Peretz of SUNY-Binghamton writes: "...there are many who will refute its contribution without so much as a glance at its first page because it was written by Elmer Berger. The loss is theirs. Who will gain are those, like Berger himself, with an open mind and a willingness to become familiar with new perspectives on an ancient controversy."



Dr. Elmer Berger

For 26 years Elmer Berger has served as president of American Jewish Alternatives to Zionism, Inc.; for over 50 years, he has lectured and written on Judaism and Jewish nationalism as a rabbi of American Reform Judaism.

A few years ago, Dr. Berger began research on newly declassified documents from Israeli and Zionist archives. For a man whose whole life has been linked to Palestine, the documents he read turned out to be, surprisingly, so fresh and instructive that what began as a submission to a law journal turned into a book for the University Press of Florida.

And a feature article for our issue of *The Link*.

Is there anything to be learned in '94 from what happened in '49? Elmer Berger thinks there is. Certainly since '49, one opportunity after another for peace has come and gone. This time, says Rabbi

Berger, now 85, it can happen... if. If what? If the negotiators sitting around the table are willing to peel the onion.

Elmer Berger's book can be obtained through A.M.E.U. Our full selection on pages 12-16 also includes, among many other books and videos: a wonderfully illustrated coffee-table book on Islamic art in Spain, published by the Metropolitan Museum of Art; two surveys, one political, one cultural, on individual Middle Eastern states; two important books on Christians in the Middle East; and a most unique work, which our Book Manager describes as a mix, if you can believe it, of Noam Chomsky and the comics.

And one other book. Sadly, it is more important to read today than when it first came out in 1990. "The False Prophet: Rabbi Meir Kahane: From FBI Informant to Knesset Member," is not only about the founder of the Jewish Defense League; it is about his financial supporters in the United States, some very respectable public figures; it is about the killers of Alex Odeh in California; it is also about Dr. Baruch Goldstein and his settler friends who now honor the Brooklyn pediatrician for shooting Muslims in the back while they knelt in prayer.

Sincerely,
John F. Mahoney

Problem 1: The Biblical Account

The Jewish Zionist, Dr. Baruch Goldstein, on Friday, February 25, 1994, at 5:30 in the morning, entered the Cave of the Patriarchs and massacred Muslims who were prostrate on the floor in prayer. His friends later told *The New York Times* (2/28/94) that he was motivated by "what he saw as a biblical quest for a greater Israel."

That indeed is the first problem we must face, if negotiators are to have any hope in resolving the Palestine-Israeli conflict.

... a civilization, advanced for its time, flourished some 7,000 years before the invasion and conquest by the Hebrew tribes

Throughout recorded history "foreign" armies have swept over, occupied, and ruled the territory that in more recent times the world has called Palestine. The Hebrew/Israelist tribes were late-comers to the territory, and quite different from the way they have been depicted in myth and near-legendary revision. The biblical book of Joshua, for example, is a highly romanticized account of the process of conquest by desperate tribal people who had come in from contiguous territories beginning sometime between 1900-1600 before the Christian Era.

Knowledge of these early "immigrants" remains sketchy, even today, although new archeological discoveries together with advanced technological tools provide indisputable evidence of a "Palestinian" (Canaanite) civilization existing perhaps 3,000 years before the invasion of the Hebrews.¹

Awareness of this long-ago history relates directly to resolving today's Palestinian/Zionist confrontation.

The pervasive pro-Israeli bias of the conventional American mass media treats the presence of Zionism in Palestine as if the entry into the territory of the earliest Zionist settlers marked a virtual "virgin birth" of human habitation or, more seriously, of the beginnings of an advanced civilization.

It must be something of a cultural

shock for audiences in the modern western world to learn that a civilization, advanced for its time, flourished some 7,000 years before the invasion and conquest by the Hebrew tribes. Indeed, the Hebrews had to fight a long, bitter war with the pre-existing residents, the Canaanites, many of whom must have descended from earlier invaders. Furthermore, the battle was not limited to actual battles with the conventional weaponry of the time. For the future Israelis were not successful in obliterating the established population, which many Old Testament texts called upon them to

do. Rather, they settled for military dominance in scattered areas where they were able to defeat the locals.

One consequence of this piecemeal "conquest" was that in many places the invaders and the invaded lived a kind of arms-length condition of non-war. This meant testing the efficacy of the power of the god-idea of the invaders versus the strength of the land-gods of the natives. Chapter I of the Book of Judges inventories the lengthy roster of the local nation-tribes that the invaders failed to "drive out." The result of this incomplete conquest was an incremental fusing of the culture of the invaders and that of the indigenous people. The desert god Yahweh remained the number one god of the Israelites, yet as a practical matter, the new-comers also worshipped at the shrines of the local gods in whom, it was believed, resided the power to give—or deny—abundant crops and animals. The Book of Judges is filled with the record of the "children of Israel" doing "evil in the sight of the Lord" by worshipping the Baalim and other local fertility deities.

Regrettably, in the continuing controversy over claims to national rights in Palestine, the romanticized revisions of history are presented as determining facts in today's political/military confrontations. How often, for example,

have we been told that a word from God, uttered 4,000 years ago, serves as a 20th Century legal deed?

My own theological training had been at a pre-eminent theological academy in American Reform Judaism. Back then, Zionism was little more than a footnote on the American political agenda, of interest to a small fraternity of American Jews and some Christian denominations. To most others Palestine was a far-away land, its inhabitants, Arabs and Moslems, popularly associated with a swash-buckling cinema star named Rudolph Valentino, who always won the swooning female by defeating the stereotypical Arab villain.

As time went on, however, I became more involved in the increasingly tempestuous politics of the Middle East. (I have often asked myself why, of my own volition, I left a comfortable life as a "parish" rabbi and entered the Zionist-anti-Zionist controversy, one of the bitterest intramural brouhahas in the history of U.S. Judaism.)

Sometime in the late 1960's or early 1970's—I have never kept a diary, so the exact date eludes me—the then-young Senator from Oregon, Mark Hatfield, asked my friend and frequent legal advisor, Dr. W. T. Mallison of the George Washington University Law Center, to arrange a meeting with me. The Senator had just spoken out publicly about the tragic fate of Palestinians who had been displaced by years of Zionist/Israeli territorial expansionism. The failure or inability of the international community to require the Jewish state to comply with numerous U.N. resolutions reiterating the right of these Palestinians to repatriation disturbed the Senator from Oregon.²

After the usual pleasantries, Hatfield said that he had seen some bits and pieces of my published opposition to Zionism, and that several of his constituents had suggested he meet with me. "Now, what I'm interested in," he said, "is how you, as a Jew, have come to your position?"

The question took me off guard and I tried to organize some twenty years of advocacy into a few minutes. As best as I can recall, my reply went

something like this:

I was born an anti-Zionist. I did not invent anti-Zionism. My interpretation of Judaism is as old as the Old Testament Prophets. The conventional wisdom that God 'promised' the ancient Israelitish tribes to return them to Palestine is a simplistic, politicized corruption of a complicated, ever evolving 'covenant.' The essence of this 'covenant' is ethical conduct to a degree of excellence that is probably unobtainable for mere mortals.³

The ancient tribal Israelites had acquired domination over the indigenous population of Palestine according to the culture of their times, and with the aid of the divinity as conceived by them at the time. And when they broke the ethical terms of the covenant, God frequently warned them through inspired, humble, self-effacing messengers, that they would be banished from the land as punishment. Only when the followers conformed to the rigorous stipulations of the covenant would God send the Messiah to lead 'the return.'

My own denomination in Judaism, I told Hatfield, no longer required such return as a reward for observant conduct. In fact, in the 1880's, it had formally declared "We consider ourselves no longer a nation, but a religious community, and therefore expect neither a return to Palestine nor a sacrificial worship under the sons of Aaron, nor the restoration of any of the laws concerning the Jewish state." Judaism's "great Messianic Hope" the declaration affirms, is "for the establishment of the kingdom of truth, justice and peace among all men."⁴

Hatfield, in response, said something to the following effect: There is nothing really foreign to me in what you have said. As a Christian the return of Jews to the Holy Land is but one sign of the coming of a messianic age in which all humans will enjoy the benefits of an ideal society. I intended no theological implications in my comments about the present tragedy of Arab refugees from Palestine; nor, I think, did I presume to legislate for the State of Israel beyond the United Nations' prescriptions designed to fa-

cilitate peace for that part of the world. The partition of the country recommended by the U.N. and energetically prosecuted by the United States states clearly that the dislocated Arabs who elect to return to their homes and live in peace under the now-recognized sovereignty of the Jewish state, should be free to do so.

I agreed, and added that, in my opinion, his effort to focus international political attention on the refugees was entirely consistent with my interpretation of Judaism.

American Zionism, I said, was, by design, a political / religious chameleon.

But then, I added, this was an opinion not shared by the organized and very vocal Zionists who had attacked him. American Zionism, I said, was, by design, a political/religious chameleon. What was important for him to understand—and for all Americans, particularly those who formulate Middle East policy—was that the aggressive brand of Zionism was a Middle European import. For these Zionists, Jews constitute a national, not religious, entity, one driven by force from its 'homeland' two thousand years ago, and one that has never abandoned its national yearning to re-group as a sovereign 'Jewish state' in the land which revisionist history has identified as its national birth place.

My training had been fundamentally different. Scripture, we had learned was a fallible, human record of events, in part dictated by political/economic considerations affecting the lives of the desperate tribes who had come into ancient Palestine centuries ago. These tribes had experienced only short periods of national unity forged largely in wars, both offensive and defensive, against both the native population of Canaan and the neighboring peoples who, like the Israelitish tribes, found the more fertile land preferable to the rugged, bedouin life of the surrounding deserts.

I was attracted to the large portions of the Bible that recorded the exalted

visions of men (and a few women) who we have come to call prophets. And I have reflected often on those first prophets, the literal prophets, who eschewed the role of prophet. "I was no prophet, neither was I a prophet's son," Amos said to the King's hired sycophants. "I was a herdsman and a dresser of sycamore trees, and the Lord took me from following the flock and said unto me, "Go prophesy unto Israel that because of the corruption of the people Israel shall surely be led away captive out of his land." (Amos VII: 17).

Simple logic rejects the Zionist contention that "the Jews" came to the territory now generally recognized as the State of Israel (not embracing the illegally 'occupied territories') as a united nation or that they have continued for nearly three thousand years as a single-minded collectivity motivated by a national passion to reconstitute (to use a Zionist word) its nationality with the present State of Israel in fulfillment of some divinely ordained cosmic destiny.

The facts are that 'unity' has been a rarity among Jews, even religious Jews, except for the intellectual and theological commitment to a belief in a universal monotheistic interpretation of a morally demanding God.

I apologized to the junior Senator from Oregon (as I do to you the reader) for the length of my answer to his question how I came to my anti-Zionist position. I urged him to beware of the broad, sometimes even plausible efforts of an efficient, Zionist/Israeli propaganda machine to gloss over Zionism's original sin: that it took by force what rightly belonged to others, and that, in the process, it turned millions of human beings into refugees. And, again, for his courage in reminding the American people of the tragic plight of these dispossessed Palestinians, I thanked him.

It is a reminder I would now extend to those negotiating the P.L.O.-Israeli accords. If the first step is to identify

the problem, then Israel has to acknowledge its theft of Palestinian lands and either allow those refugees to return who want to or offer reparations to all others whose property was stolen. If this issue isn't addressed, the conflict, I fear, will continue—just as it continued after 1949, when the negotiators conveniently forgot about the refugees.

Problem 2: The Balfour Declaration

One influential leader who did believe that Jews had a divine and everlasting right to Palestine was Lord Arthur Balfour, the British Foreign Secretary.

In November 1917, Balfour sent a letter—henceforth known as the Balfour Declaration—to Lord Rothschild. (See copy at right.) He had been persuaded to write the letter by Chaim Weizmann, a passionate British Zionist, and renowned scientist, whose knowledge of chemistry had helped the British in their war against the Ottoman empire. Britain's motive in giving European Jews a 'homeland' in Palestine was geopolitical: to colonize the eastern flank of the Suez Canal in order to safeguard England's communication link with India.

In 1918, England joined its Allied victors in signing the Covenant of the League of Nations, which recognized the "provisional independence of the former Ottoman provinces," and promised to respect their wishes in the selection of a mandatory.

In 1919, at the Peace Conference in Paris that ended WWI the Zionist Organization presented the boundaries for the "homeland" which they claimed the Balfour Declaration had given them. (Copy of this map is shown on page 11.)

In 1920, the League of Nations made France the mandatory of Syria/Lebanon and England the mandatory of Palestine/Jordan and Iraq. The function of the mandates was to prepare the Arab people for democratic self-government.

The system of mandates, of course, was nothing more than a collection of

The Balfour Declaration

Foreign Office
2 November 1917

Dear Lord Rothschild,

I have much pleasure conveying to you on behalf of His Majesty's Government the following declaration of sympathy with Jewish Zionist aspirations, which has been submitted to and approved by the Cabinet:

"His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country."

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours Sincerely,
Arthur James Balfour

fig leaves to conceal the fact that the victorious Allies never intended to relinquish their influence in the geopolitically strategic Middle East, much less solicit the wishes of the peoples freed from Turkish rule.

In a detailed Memorandum to his Cabinet, dated September 19, 1919, Foreign Minister Balfour stated, in no uncertain terms, his government's policy for handling the Palestinian population:

For in Palestine we do not propose to go through the form of consulting the wishes of the present inhabitants of the country. The four Great Powers are committed to Zionism. And Zionism, be it right or wrong, good or bad, is rooted in age-long traditions, in present needs, in future hopes of far profounder import than the desires and prejudices of the 700,000 Arabs who now inhabit that ancient land.

In my opinion that is right. What I have never been able to understand is how it can be harmonized with the declaration [Balfour Declaration], the Covenant, or the instructions to the Commission of Enquiry.

I do not think that Zionism will hurt the Arabs, but they will never say that they want it. Whatever be the future of Palestine, it is not now an 'independent nation', nor is it yet on the way to become one. Whatever deference should be paid to the views of those who live there, the Powers in their selection of a mandatory do not propose, as I understand the matter, to consult them. In short, so far as Palestine is concerned, the Powers have made no statement of fact which is not admittedly wrong, and no declaration of policy which, at least in the letter, they have not always intended to violate.⁵

Not surprisingly, Britain's Mandate for Palestine was the "production and property of [the] Government and Zionists," with representatives of the Jewish Agency [Zionist Organization] and His Majesty's government designated as "the parties to the Mandate." The Arabs didn't even have a seat at the table.⁶

Thus the Mandate became the first internationally recognized legal action investing the Zionist Organization with the status of an identifiable "party" to the Palestinian dispute.

What we should not forget, however, is that the Mandate's diplomatic progenitor, the Balfour Declaration, had been a unilateral declaration of the British Government, crafted in close consultation with leading Zionists like Weizmann.⁷

American Jews, too, were involved. Contacts had been made with U.S. Supreme Court Justice, Louis Brandeis who, in turn, told President Wilson of the contemplated pro-Zionist declaration. The American President, less than enthusiastic for the Zionist cause, was finally persuaded by Brandeis. Wilson, it seems, was motivated more by a desire to be helpful to the British and their belief that support of Zionism would help their cause in WW I than by any commitment to the merits of Zionism, per se. Similarly, the French gave reluctant assent to the vagaries of the Declaration.

What these facts tell us about the diplomatic origin of the Balfour Declaration is that, Zionist mythology aside, the Declaration was neither the result of a divine promise to return "the Jewish people" to Palestine, nor a kind of irresponsible humanitarianism within certain circles of the British Cabinet to provide "the Jews" with a "refuge" from their years of suffering. What the Declaration was was a classic case of cynical defiance of the Wilsonian principle of "open covenants openly arrived at."

They tyrannously withdrew from the Arabs natural and inherent rights over their native land.

From this web of history one salient fact emerges, wraith-like, and then only to the already informed investigator: in not one of the agreements made by powers geographically distant from the Middle East are the indigenous Arabs of Palestine, the majority of Palestine's population, identified by name, nor is there any clear indication of any respect for their rights, human, individual or nation/collective. The only slight nod to the people whose lives would be most tragically affected was Balfour's boldfaced, *post-facto* "explanation," cited

above, that there was not the slightest intention of granting the indigenous people of Palestine anything.

I vividly recall, now some fifty years ago, a memorable conversation in Beirut with Emile Bustaini, a member of one of Palestine's leading, native families. He, along with his entire family, had prospered as part of the hundreds of thousands of Palestinians who had found few homes in Lebanon after fleeing the imminent domination of their homeland by the Zionist aggressors' aggressions. The Bustainis had found not only a home in Lebanon, they had prospered mightily by participating in the construction and later the abundant royalties from Tapline, the conduit to the vast oil fields of the Arabian peninsula which fueled the expanding industrial plants of Europe and the United States.

As we sat on the spacious, outdoor veranda of the grand old St. Georges Hotel, looking out over the blue Mediterranean, Emile said to me, "Had the Zionists come to Palestine determined to make common cause with us [the Palestinians], we could have together ended the British control of the country and made Palestine the undisputed leading country in the area."

But this might-have been never was to be.

Some in the British government may have envisioned a post-WWI world with such a happy ending. After all,

the old Ottoman Empire had been successfully dismembered. But the French insisted upon some tangible reward for their alliance, and the British still dreamed the dreams of empire. And, as J.M.W. Jeffries makes clear in an eloquent introduction to his singularly revealing, almost daily account of the political chicanery that drove the Big Powers, any reference to the native population of Palestine was intentionally obliterated. Jeffries writes:

There is no reason, to my mind, for euphemism, for saying that these men and these Cabinets were

mistaken or ill-advised or pursued mere erroneous policy in Palestine, or foolishly accepted an unworkable Mandate. They did nothing of the kind. They pursued a policy involving fraud and perfidy. They tyrannously withdrew from the Arabs natural and inherent rights over their native land. They broke Britain's word to the Arabs. To suit their aims in Palestine they gerrymandered as far as they could the Covenant of the League of Nations, and where they could gerrymander it no further they broke it. They falsified the Mandate.⁸

[I would like to note in passing that, years ago, when I first came across the Jeffries book on the bottom shelf of one of London's off-the-regular-beat bookstores, I was so fascinated, I brought it home and urged a number of my good Arab friends to ask their respective governments to provide adequate financing to employ a crew of student editors to edit the book, and, where possible, to identify the original journalistic sources extensively quoted throughout the book. If these two tasks could be completed, I thought funds might be accumulated to publish an updated edition of the book. Unfortunately, there were no "takers." Still, this book, *Palestine: The Reality*, remains one of the most valuable accounts of the forces set in motion half a century ago.]

Given this near-total neglect of the rights of the indigenous Palestinians, the incremental rise of native self-conscious nationalisms and the corresponding colonial exploitation by the Great Powers, there need be precious little guessing to explain why the first Palestinian-inspired disturbances date from 1920. Of the several mandates assigned to Great Britain and France dividing Palestine from Syria/Lebanon, the Palestinian document alone lacked the clauses that called for the Mandatory powers "to facilitate the progressive development" of these countries "as independent states...The Palestinian Mandate was formulated palpably in the Zionist interest..."⁹

This open-ended British/Zionist relationship and the corresponding denigration and often downright subjugation

tion of Palestinian rights to the "Zionist interest" produced nearly two decades of civil war between the natives and the foreign import of exclusivist Zionist building of a "nation within a nation".

So intense was this Zionist pressure on London that it frequently competed with the empire's imperial designs. As Emile Bustani ruefully remarked years later, these same British designs generated political, and frequently military conflicts against the protracted foreign domination. And although both Palestinians and swelling numbers of imported Zionists fought the British, it was the Zionist parties, with huge financial support from American and European Zionists, who fobbed off the increasingly embittered Arab majority.

Meanwhile, the disturbances required an enlarged British occupation force and a rising cost to a Britain already seriously in financial trouble because of the cost of the expanded war against the Turks and their allies. No logistic genius was required to detect that where solemn state obligations presumably addressed specific people or territories or governmental structures, the Balfour Declaration deliberately concocted undefined — even indefinable — political terminology. Note the following obscurities:

[1] What, for example, was the legal meaning of a "declaration of sympathy," the Declaration's overall description of the document?

[2] Who? What? Was "the Jewish people?" And what was "a national home?" The term is not to be found anywhere else in a formal, legal commitment from a recognized sovereign government to a self-declared - political/national entity composed of nationals from many different states.

[3] And what, in any diplomatic/contractual sense is the meaning of the "best endeavors" of "His Majesty's Government?" Whatever else it may have meant — or was never intended to mean — it was a long way from anything resembling a treaty or a commitment to pay the bills or to engage

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in any test of force "to facilitate the achievement" of the non-territorial "national home", that non-existent national entity of Jews from around the world.

[4] The next few words of the Declaration strongly suggest its eminent drafters early-on had some flashes of intuition that the text they had formulated was a kind of diplomatic oxymoron, a Pandora's box filled with self-contradictions. "Nothing" was to be done that "may prejudice the civil and religious rights of existing non-Jewish communities in Palestine" (Emphasis supplied.) That, to use a fairly contemporary phrase would be "the neatest trick of the week."

Of course one explanation might be that the "existing non-Jewish communities" actually possessed no inherent, inalienable rights, "civil" or "religious." The majority population of the country was, by a ratio of perhaps 10 to 1, Arab, whose status before the war had been determined at the whims and in the interests of a decaying Ottoman Empire. The same condition held for the small minority of Palestinian inhabitants who were Jews. But now, with a stroke of a pen, and without consulting the majority population, an undefined "national home" for a non-existent, extraterritorial nation, euphemistically called "the Jewish people" was to be invested with the power and prestige of one of the then-world's major, imperial powers. And all this took place after the British High Commissioner in Egypt, Henry McMahon, just two years before, on October 24, 1915, had assured Sharif Hussein, the leading Arab spokesman in the area, that "Great Britain is prepared to recognize and support the independence of the Arabs in all the regions...demanded by the Sharif [sic] of Mecca."¹⁰

It defies credibility to believe that the veteran British diplomats who participated in the November 1917 drafting of the Balfour Declaration were blind to its contradictions. How could they possibly have reconciled the employment of their "best endeavors" to facilitate the insinuation of an assumed collectivity of non-Palestinians called "the Jewish people" into a political formula committed to the democratic position that nothing [would be done] which [might even] "prejudice" the civil and religious rights of Palestinians who were known to be "non-Jewish?"

And to further cloud any coherent meaning of the Declaration's text, how was it possible to invest non-Palestinian Jews, citizens of many nations, with any implementable "national" rights in Palestine without "prejudicing" [altering] the rights and political status enjoyed by Jews in any other country?¹¹

It is a tragic commentary on the international lawyers, the compromising diplomats, the dedicated "peacemakers" of the past seventy-plus years that *not one* of these questions, so willfully concealed by the drafters of the Balfour Declaration, has even been honestly addressed.

Finally, let it be said that this oxymoronic, one-sentence paragraph by Balfour did throw a bone to those distinguished British Jews who were known to be at least non-Zionist, if not actively and outspokenly anti-Zionist. Among the latter were counted some of England's most distinguished Jewish families: the Montagues, the Montafiores and the Wolfs.¹¹

In the United States, as well, Jewish opposition to Zionism was beginning to surface. This caused apprehension among pro-Zionist British policy-makers who had hoped that the promise of a Jewish homeland in Palestine would win the support of American

Jews who, in turn, might influence the U.S. government to support Britain's control over Palestine. 300 prominent U.S. Jews presented President Wilson with a formal statement opposing the political segregation of Jews and expressing the fervent hope that what was once a "promised land" for the Jews may become a "land of promise" for all races and creeds.¹²

Sensitive to these voices, the drafters of the Balfour Declaration added a final clause prohibiting the Zionists from any action which "may prejudice...the rights and political status enjoyed by Jews in any other country" than Palestine.

Readers in this last decade of the 20th century may legitimately question the reason for this extended dissection of the Balfour Declaration. Suffice it to say that, as a personal opinion, it is doubtful if any single paragraph has hatched more geo-political trouble for more people than this one document. Beneficial on its face but diabolically destructive in fact, its seemingly generous prose warrants textual scrutiny.

Now, 77 years after Lord Balfour's Declaration, Mr. Arafat is sitting down with Mr. Rabin. Progress? Yes. But, I suspect, were Lord Balfour around, he would smile at some of the linguistic gerrymandering still going on. Palestinians can own flags but not passports; they can have border controls but not control borders; they can exercise self-rule but not self-determination; they can have autonomy but not sovereignty.

I can almost hear Balfour asking: how does all that differ from the promise I made not to "prejudice the civil and religious rights of existing non-Jewish communities in Palestine"?

Problem 3: The '48-'49 Armistice

Several years ago, a friend of mine, Dr. Anis Kassem, then a graduate student at the George Washington University Law Center, suggested that I look into some newly declassified Israeli and American documents pertaining to the four armistice agree-

... I realized I had entered a most fascinating arena, one with enough previously unpublished facts to fill a book.

ments of 1948-49 between Israel and its surrounding Arab states. Kassem, a Palestinian now practicing law in Kuwait, proposed that I write an essay on my findings for the Palestine Yearbook of International Law, which he edits.

Not long after embarking on the research, I realized I had entered a most fascinating arena, one with enough previously unpublished facts to fill a book. Kassem concurred, and, in 1993, the University of Florida Press published the work under the title *Peace for Palestine: First Lost Opportunity*.

My intent in writing the book - and this article—is to shed some light on the applicable international laws and on the attitudes and negotiating ploys of the parties involved. My hope is that this information will serve as a guideline for today's peacemakers.

What was the historic situation?

In November 1947, the U.N. General Assembly recommended the partition of Palestine into a Jewish and an Arab state, with Jerusalem as a *corpus separatum*, to be administered by the Trusteeship Council "on behalf of the United Nations."¹³

In May 1948, with the end of Britain's Mandate and the declaration of the "Establishment of a Jewish State in Eretz-Israel, to be known as the State of Israel," war broke out between Jewish and Arab forces. The Zionists, with a 3 to 1 military advantage, forced over 725,000 Palestinians from their cities, towns and villages. When it was over, Israel controlled three-fourths of Palestine, twice the area recommended by the U.N. (See maps on page 11.)

In 1949, the United Nations directed that "the refugees wishing to return to their homes to live at peace with their neighbors should be permitted to do so at the earliest possible date, and that compensation should be paid for the property of those not choosing to return and for the loss or damage to property which, under law or in equity, should be made good by the

Governments or authorities responsible."

Israel resolutely opposed this call.

Instead, the Jewish state chose to work out separate agreements with the individual Arab states. Its strategy, according to available Israeli and U.S. records, was: 1) to resist any multilateral, coordinated Arab negotiations on the belief that 'Arab disunity is one of Zionism's most reliable allies'; 2) to use delaying tactics to take by financial or military force any property of strategic importance for long-term objectives; and 3) to maintain an unrelenting public opinion offensive, particularly in the United States.¹⁴

On Jan. 7, 1949, a formal cease fire went into effect on the Egyptian front, and Egyptian-Israeli talks began on the island of Rhodes on Jan. 12. The final agreement was signed on Feb. 24. Israeli chroniclers generally agree that the Egyptian armistice negotiations were an almost unqualified success for Israel.

Talks with Lebanon began in January, 1949. Initially, Ralph Bunche, the U.N. chief representative, declared that U.N. resolutions would govern the military armistice discussions. Israeli intransigence, however, so frustrated the negotiators that, by the time the talks ended on March 23, the prevailing spirit was "Let's get on with it." The internationally recognized boundary was accepted as the armistice line without requiring Israel to withdraw from western and central Galilee.¹⁶

The first 'formal' talks with Jordan began on Dec. 30, 1948. The Jordanian king wanted to negotiate on the basis of the U.N. partition resolution and the Bernadotte plan, which also envisioned a Jewish and Arab state. Israel insisted it would negotiate 'on the basis of the existing military situation,' which preserved their territorial and demographic war gains. On March 30, the two sides signed a secret agreement which completely undermined the U.N. recommendation on partition

as well as the status of Jerusalem. Israel's military superiority had clearly called the shots.¹⁷

When they ended, the armistice left more issues unresolved than resolved...

With Syria the situation was different in that Syria by the end of the fighting occupied territory assigned by the U.N. to the Jewish state.

The talks began on April 5, 1949 and ended July 20, making it the longest and most bitterly debated of the four armistices negotiations.

When they ended, the armistice left more issues unresolved than resolved, including the status of Jerusalem, Israel's borders, and repatriation/compensation for Palestinian refugees.¹⁸

The U.N. negotiators, disregarding the fact that their own resolutions had been utterly discounted, hastily celebrated the armistice agreements as a "transfer" from "truce to permanent peace in Palestine."

In fact, it led to four [some would say five] wars.

Why? What was the problem, as my young executive friend might ask?

If I had to point to one single document that explains Israel's negotiating policy in all four armistice agreements—and, I believe, in all subsequent dealings with the Arabs—I would point to the 1919 Zionist memorandum to the Paris Peace Conference. At that Conference, following WWI, the Zionists proposed the boundaries they needed for the "national home" which they claimed the Balfour Declaration had given them. These borders (see map on page 11) were:

Starting on the North at a point on the Mediterranean Sea in the vicinity of Sidon and following the watersheds of the foothills of the Lebanon as far as El Karaon, thence to El Bireh, following the dividing line between the two basins of the Wadi El Korn and the Wadi Et Teim line between the Eastern and Western slopes of the Hermon, to the vicinity West of

Beit Jenn, thence Eastward following the northern watersheds of the Nahr Mughaniye close to and west

of the Hedjaz Railway.

In the East a line close to and West of the Hedjaz Railway terminating in the Gulf of Akaba.

In the South a frontier to be agreed upon with the Egyptian Government.

In the West the Mediterranean Sea.¹⁹

These claims have never been renounced by Israel, which to this day has never, even for bargaining purposes, declared what its boundaries should be.

This map, I believe, was operative in all the 1948-49 armistice negotiations; Israel, in fact, made it abundantly clear that the lands they occupied beyond the U.N. partition-recommended boundaries had long been the blueprint for a Jewish state that they felt could survive economically only by possessing the region's available water resources.

The same map was operative in 1967, when Israel occupied Syria's Golan Heights and Palestine's West Bank, both with considerable water resources.

And Israel's 1982 occupation of southern Lebanon was clearly consistent with the 1919 claim to establish the Jewish state's northern border at the Litani River.

The Arabs in the '48-'49 negotiations should have been aware of the Zionist's geographical aims; after all, Prince Faisal, son of Sharif Hussein had represented the Arabs at the Paris Peace Conference, and had even discussed the Zionist plan with Weizmann. Still, as the historian Fred Khouri notes, most Arabs after WWI found their leaders ill prepared to defend the Palestinian Arab cause in the arena of international diplomacy and propaganda.²⁰

Today, there are those who argue that we should drop the ideological baggage of the past and focus on improving the existential lot of Palestinians under occupation. Later—five years down the road—we can entertain the "final status" questions. It reminds me of those U.N. negotiators who, having disregarded their own international laws for the sake of a quick fix, spoke so hopefully of a transition "to permanent peace."

I do believe some, maybe a substantial number of Israelis and U.S. Jews, want to trade in the 1919 map for normal relations with the Arab world, including an independent Palestinian state. But I also believe that map still represents Israel's boundaries for a large segment of Israel's political and military leadership.

Will '94 be '49 all over again? If, when the deal is done and Mr. Arafat moves to Jericho, the Israelis use the next five years to thicken their settlements, secure their road the utility grids in the West Bank, and consolidate their control over the area's water resources, then the answer is Yes.

The problems preventing a genuine peace seem clear—at least to me:

Too many people believe—not just Dr. Baruch Goldstein and his sympathizers, but a goodly number of Christians—that God has actually given Jews from around the world a land that has long belonged to others; the fact is, pre-'67 Israel is a sovereign state because most of the world has granted it diplomatic recognition. As such, Israel is subject to all the international rights and obligations as any other independent nation.

Too many people still believe that the Balfour Declaration legally, and for humanitarian reasons, gave European Zionists a "homeland" in Palestine. Balfour's Declaration was a cynical ploy to preserve British foreign interests.

Too many people fail to grasp why the four armistices led, not to peace, but to four wars and 25 years of military occupation.

If '94 is to be different, the answer—at least to me—seems equally clear:

The 1919 map has to be discarded in favor of the relevant U.N. resolu-

tions. Implementation of these resolutions may indeed take place over a specified period of time, and with certain agreed-upon modifications and security guarantees. But these resolutions dealing with borders and refugees are the only framework in which genuine peace is possible.

And how, you, the reader might ask, will we know if the negotiations going on now are being shaped by the 1919 map or the U.N. resolutions?

We'll know.

This morning, for example, Feb. 19, 1994, *The New York Times* carried a special report on page 3: "Israelis Are Rushing to Build a Greater Jerusalem."

I conclude with selected excerpts:

As far as Mayor Benny Kashriel is concerned, his town of 20,000 is an eastern precinct of Jerusalem.

Never mind that Jerusalem is five miles up the road or that most outsiders call Maale Adumim a settlement, by far the biggest of Israel's 140 outposts in the territories it had held since the 1967 war.

...without formally annexing West Bank land, the Rabin Government wants to achieve the same results by building up the Jewish presence all around the disputed city, declared by Israel to be its united capital for all time. The Israelis' goal is to solidify their hold on what they call Greater Jerusalem even as they negotiate with the Palestine Liberation Organization on a transfer of authority to Palestinians in the territories.

Some officials talk about building as many as 15,000 new apartments, especially to the east and north—construction plans that, if turned into a reality, would add tens of thousands of Israelis to those areas and in effect give Mayor Kashriel the security corridor he seeks. On this score, he gets no argument at the highest Government levels.

As I say, we'll know.

ENDNOTES

1. For an excellent summary of this earliest history, see "The History of Israel," Michael Grant, Charles Scribner, NY., 1984. The dates here are found on pp. 29 ff., together with a detailed historical context, plus numerous archaeological sources.
2. Probably the most definitive study to date of the origins of the "refugee problem" is "The Birth of the Palestine Refugee Problem, 1947-1949," Benny Morris, Cambridge University Press, 1987. Morris is the diplomatic correspondent for *The Jerusalem Post* and an Israeli.
3. See "Prophecy, Zionism and the State of Israel," Elmer Berger. Lecture delivered to the Theological Faculty of the University of Leiden, Holland, in 1968. Available on request from AJAZ, 347 Fifth Avenue, Suite 900, New York, NY., 10016.
4. For the full text of this classical statement of Reform Judaism, see *The Universal Jewish Encyclopedia*, NY., 1942, vol. 6, p. 241.
5. Documents on British Foreign Policy, 1919-1937, reproduced in "From Haven to Conquest," Walid Khalidi, ed., The Institute for Palestine Studies, Beirut, 1971, p. 208. In fairness, it should be added that the British Cabinet was not entirely satisfied to accept Balfour's cynical dismissal of the rights of the indigenous population. For a record of the Cabinet dissidents and the internal debate, plus editorial commentary, see "Palestine Papers, 1917-1922," Doreen Ingrams, N.Y.: George Braziller, 1973.
6. "Palestine the Reality," J.M.W. Jeffries, Longman, Geere & Co., London, 1939, p. 632.
7. For a detailed history of the motivations and negotiations leading to the issuance of the Balfour Declaration, see "The Balfour Declaration," Leonard Stein, London, 1961. Stein was a "close friend of Chaim Weizmann" and a lawyer who provided Weizmann with legal advice in his dealings with the British Government.
8. "Palestine: the Reality."
9. Hurewitz, J.C. "Diplomacy in the Near and Middle East," Vol. 2, Princeton, NJ., D. Van Nostrand, 1956, p. 107.
10. See "The Hussein-McMahon Correspondence: 1915-1916."
11. For a fully documented presentation of the anti-Zionist political/ideological opposition to the declaration, see op.cit, Stein,

particularly Index under: Montague, Anglo-Jewish Association, League of British Jews. It should be noted that these non anti-Zionist British Jews were not aware of the deplorable conditions in which Jews in Eastern and central European countries (particularly in pre-Revolutionary Russia) lived. In their concern these British Jews were joined by many Jews in the United States. Considerable funds were made available in an attempt to alleviate the physical suffering of these victims of the undemocratic societies in which they lived. (For an overview of the dramatic difference of living conditions for Jews in the democratic oriented societies of Western Europe compared to the conditions for Jews in the Eastern and Central European nations, see "The Jewish Dilemma," Elmer Berger, Devin-Adair Co., 1945, Part II, pp. 59 ff.) Immigration to Palestine was considered one of the ways to better the future prospects of some of these disadvantaged Jews. But such humanitarian-motivated plans, the Western philanthropists insisted, were not to be interpreted as endorsements of political/national aspirations of the Zionists reflected in such Declaration-language as "a national home for the Jewish people."

12. For a lucid, authoritative exposition of the ideological, political and theological bases of Jewish anti-Zionism, plus the text of a formal statement signed by 300 American Jews, see "Zionism and the Future of Palestine," Morris Jastrow, The Macmillan Co., New York, 1919.
13. General Assembly resolution 181 [11]
14. Berger, Elmer, "Peace for Palestine: First Lost Opportunity," University Press of Florida, 1993, p. 81.
15. *Ibid.* p. 82.
16. *Ibid.* p. 88.
17. *Ibid.* p. 111.
18. *Ibid.* p. 217.
19. Hurewitz, "Diplomacy in the Near and Middle East," p. 46.
20. F. Khouri, "Arab/Israeli Dilemma," Syracuse University Press, 1968, p. 15.