

Government and Politics in ISRAEL

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The book distinguishes itself however, in three respects from the volumes on Germany, Italy and Switzerland. It brings out the taut, precarious balance of the new state, at one point only nine miles wide, breaking the arc of hostile Arab states which stretches almost right across the Middle East. Secondly, the author manages to reproduce the flavour of a state in which immigrants exceeded the original population and which supports four religious parties amongst the twenty-six which contested the elections in 1959. Finally the almost total lack of comparable serious studies lends a particular value to this volume.

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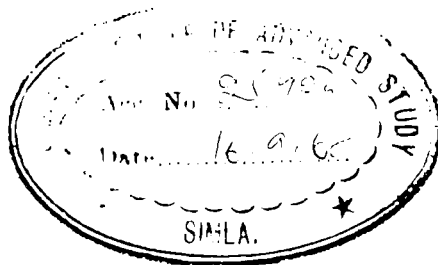
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One of the profoundest political changes in modern history is the virtual elimination of Great Britain and France as major powers in the Middle East and their replacement by the United States and the Soviet Union. America's involvement is new. I can remember how minute American concern was with the Middle East when I was a college student in the mid-1930's. The outlook of the United States has since generally broadened. Choice notwithstanding, we are grappling with crises and situations, at this writing alone, in The Congo, Cuba, Laos, and South Korea while enjoying what is probably a brief respite from other, no less serious crises in the Middle East.

Today, people can no longer afford to remain ignorant about distant lands which affect their lives and national destinies. One of such nations is Israel, a new state, thirteen years old, created in a period of severe world tension and itself a source of international conflict because of Arab nationalism and the country's strategic location in a region that is subject to East-West rivalry.

Israel is much in the world's news. Currently, the state is conducting a trial of Adolf Eichmann, who was chief of the Jewish affairs section of the Nazi Gestapo and is charged with responsibility for the death of 6,000,000 Jews. While the trial has been progressing, Lt. Col. Israel Beer, one of Israel's foremost military experts and advisers, was revealed to have been a Soviet agent who disclosed to the Egyptians Israeli plans to invade the Sinai Peninsula in 1956. No sooner had this occurred when Prime Minister Ben-Gurion issued a statement attacking American Zionists for not settling in Israel. This aroused bitter controversy among Jewish organizations especially in the United States. Now, on Memorial Day, 1961, Premier Ben-Gurion is in the United States conferring with President John F. Kennedy with the hopes of obtaining guarantees for the security of Israel as an independent state and for a cessation of arms sales to Middle Eastern countries.

It is the aim of this study to present an objective analytical picture of government and politics in Israel, emphasizing the constitutional and legal foundations and the political processes. Israel is a small country with large problems: Arab hostility, blockade, and boycott; a huge and too rapid influx of poor, unskilled immigrants; heavy military budgets;

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lack of essential natural resources; shortage of industrial and farm labor; insufficient housing, machinery, communications, and transport; an economy plagued by unfavorable balances of payments and dependence on foreign financial assistance; political conflicts involving more than a dozen competing parties reflecting a variety of ideologies of Jews from over sixty countries of origin; bitter religion-state relationships; the plight of both the Arab refugees and Arab inhabitants; and the pressures exerted by outside Zionist organizations. These are some of the problems treated critically within the context of government and politics and with the viewpoint that we are, at all times, dealing with people whether they be in policy-making positions or the general public.

I want to acknowledge my gratitude to Professor Dayton D. McKean of the University of Colorado for his sharp review of the manuscript and valuable suggestions for improvement.

OSCAR KRAINES

New York, N.Y.
May 30, 1961

◎ 1 ◎

Establishment of the State

The "Land of Israel" has a long and eventful history. Over a period of thirty centuries many peoples inhabited it, and countless wars were fought for its possession. In fact, the first military campaign in the world of which some detailed records are available was conducted in this ancient country in 1478 B.C. by the Egyptian Pharaoh Thutmose III; and it is known that there were previous military ventures as well. Since that distant epoch when the land was a province of Egypt, it has passed through many conquering hands. First, it was divided among the Canaanites, Hebrews, and Philistines. Then came Assyria, Babylon, Persia, Greece, Syria, Rome, Byzantine Empire, Arab Empire of the Caliphs, Seljuks, Crusaders, Mongols, Egypt of the Mameluke Sultans, Ottoman Empire of the Turks, and British rule under a League of Nations mandate.

To the Hebrews, who came in the thirteenth century B.C. from Egypt and settled in the "Land of Canaan," the country was the "Promised Land." War between the Hebrews and the Canaanites ended in victory for the former; but the Philistines later captured most of the land. The Hebrew tribes then united, created the Kingdom of Israel, and fought and freed themselves from the Philistines. In 721 B.C. the Assyrians invaded Israel and destroyed Samaria; and the large kingdom created by Saul, David, and Solomon ended. In its place arose the small Kingdom of Judea which continued in existence until the Babylonians attacked Jerusalem in 586 B.C., destroyed the First Temple and scattered the Israelis. Fifty years later, King Cyrus of Persia captured Babylon and permitted the Hebrews to resettle in the "Land of Israel." A Second Temple was built in Jerusalem, and an independent State of Israel possessing most of its former territory

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came into being and remained a state for nearly a hundred years, 168–63 B.C., until Roman legions invaded, destroyed the Second Temple in 70 A.D., and occupied the country. Revolts in two different periods, 66–73 and 132–135 A.D., failed and led to large-scale executions and dispersions. The Romans changed the “Land of Israel” to “Palestina,” — “Palestine” in English — a name which prevailed until 1948 when the land again became the “State of Israel.” From 320 to 614, the Byzantine Christians ruled until Persia seized the country; and in 628 the Byzantines defeated the Persians and massacred most of the Jews. Ten years later, the Arabs under the caliphs conquered Palestine and ruled until 1071 when the Seljuks took power. In 1099 the Crusaders occupied the “Holy Land.” In 1187, the Moslems recaptured “Filastin,” as they called the land, losing it to the Khwarezmian Tartars in 1244 who, in turn, lost it to the Mongols in 1259. The following year, the Mameluke Sultans of Egypt vanquished the Mongols; and in 1517, the Ottoman Turks wrested the land from the Egyptians and governed it for over 400 years.

When Turkey was defeated by the Allied Nations in World War I, its province Palestine was made a mandate under the League of Nations and assigned to Great Britain to administer. With World War II, the League of Nations disappeared; and the United Nations, formally established in 1945, inherited the League’s mandates and began to consider their termination and the creation in their place of independent states.

United Nations Partition Plan

On April 28, 1947, the General Assembly of the United Nations met in special session for the purpose of forming a committee to study the question of Palestine. The session was called by the Secretary General in response to a request by Great Britain on April 2, and concluded on May 15 with the appointment of the Special Committee on Palestine to study the matter and to submit proposals for the solution of the problem by September 1 for consideration by the General Assembly in its autumn session. Popularly called UNSCOP, the Special Committee on Palestine consisted of eleven members representing smaller neutral states — Australia, Canada, Czechoslovakia, Guatemala, India, Iran, the Netherlands, Peru, Sweden, Uruguay, and Yugoslavia.

After studying the history, of the Mandate, visiting Palestine and surrounding Arab countries, conducting hearings with Arab and Jewish groups, and investigating displaced persons camps in Europe, the Committee agreed on termination of the Mandate, withdrawal of

the British civil authorities and military forces, and independence for Palestine; but it was divided on the vital point of what kind of independence — either partition into two states, one “Arab” and the other “Jewish,” with the City of Jerusalem to be an international trusteeship under the United Nations, or a federal state composed of an “Arab province” and a “Jewish province” with the City of Jerusalem serving as the federal state’s capital. A majority of seven favored the partition proposal; and a minority of three, consisting of India, Iran, and Yugoslavia, opposed partition as unworkable and unfair to the Arabs and urged adoption of the federal state idea. Australia, the eleventh member, remained neutral.

The report¹ of the Special Committee on Palestine was submitted on September 1; and the General Assembly, after convening on September 16, took up the issue one week later. Debate on the majority and minority proposals lasted two months. Great Britain strongly opposed partition; and the Arab states vehemently rejected any solution other than a unitary Arab state. The Soviet Union favored partition; and the United States of America, after wavering for a time, supported partition and exercised influence among the Latin American nations to win enough votes for a two-thirds majority in its favor. On November 29, 1947, the Soviet Union moved to put the majority proposal to a vote; and partition was approved by a vote of 33 for, 13 against and 10 abstentions. The thirteen opposing votes were cast by ten Arab and Moslem states, Cuba, Greece, and India. Great Britain was among the abstainers.

Resolution 181 (II),² the formal proposal for partition as adopted, provided for: (1) termination of the Mandate for Palestine and withdrawal of the British armed forces as soon as possible but no later than August 1, 1948; (2) establishment of an “Arab State,” a “Jewish State,” and a special international regime for the City of Jerusalem administered by the Trusteeship Council of the United Nations; (3) entry by the two states into an economic and transit union for promoting joint economic development in irrigation, land reclamation and soil conservation; operating inter-state railways, highways, communications, seaports, and airfields; a joint currency system and a single foreign exchange rate; creating a joint customs union; and (4) formation of a Palestine Commission of five member states to ensure peaceful execution of the partition plan. Members

¹ United Nations Special Committee on Palestine, *Report to the General Assembly, Official Records of the Second Session of the General Assembly Supplement No. 11, A/364, Add. 1, September 9, 1947, II, 47–64.*

² General Assembly Resolution 181 (II) of November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947, A/519, January 8, 1948, 131–50.*

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elected by the General Assembly to the Palestine Commission were representatives of small neutral nations — Bolivia, Czechoslovakia, Denmark, Panama, and the Philippines.

The partition plan actually divided Palestine into seven sections, three of which were to form the "Jewish State," three the "Arab State," and the seventh section, the City of Jerusalem, was to be an enclave within the "Arab State," but under the supervision of the United Nations and free to the inhabitants of either state to visit. A jigsaw arrangement made possible movement throughout the "Jewish State" without ever touching "Arab" territory, and similar movement throughout the "Arab State" without having to touch "Jewish" territory. Jews traveling to Jerusalem, however, would have to cross through the "Arab State." Although the three sections allocated to the "Jewish State" amounted to about 55 per cent of the total area of Palestine and the "Arab State" was given nearly 45 per cent, more than half of the territory assigned to the "Jewish State" was to consist of the Negev, an arid, bare and largely uncultivable desert area in the south bordering Transjordan and Egypt.

Immediately after the Resolution was adopted, the delegates of Iraq, Pakistan, Saudi Arabia, Syria, and Yemen announced they would not consider their nations bound by the General Assembly's partition action and would not take part in the creation of the Palestine Commission. The next day, November 30, Arab hostilities to prevent partition began. An Arab general strike was called in Palestine, and violence broke out in nearly all its cities. On January 9, 1948, armed invasion commenced by an "Arab Army of Liberation" based in Syria. Within two months the City of Jerusalem was besieged. By May, 1948, however, the Jewish defense forces had driven the invading Arab armies out of Palestine.

Statehood

The Resolution of November 29, 1947, called for the establishment of "Arab and Jewish States": "two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than October 1, 1948."³ The following December 11, the British Government announced that it would terminate the Mandate and withdraw its civil authorities from Palestine on May 15, 1948, but would not assist in assuring gradual peaceful transition to the "Arab" and "Jewish" provisional governments under the guidance of the United Nations Palestine Commission. Great Britain later modified its stand by informing the Commission on January 14, 1948, that

³ Sec. A. 1., Part I, *ibid.*, 133.

it would advise the latter on Palestinian matters but would not take active part in helping to execute the partition plan's provisions for creating the two states and their provisional governments.⁴

On April 22, 1948, the Jewish Agency for Palestine, the organization officially recognized under the League of Nations Mandate for Palestine as representing world Jewry for the establishment of the Jewish national home, informed the United Nations that the "Jewish State" authorized by the partition plan would be proclaimed the moment the Mandate ended and that the required provisional government would be organized immediately after the British administrative authorities departed.⁵ On May 14, Sir Alan Cunningham, the British High Commissioner for Palestine, and the Mandatory civil authorities sailed from Haifa leaving approximately 100,000 British troops behind, the last of whom were to embark on June 30 of that year.

Since May 15, the official date of termination of the Mandate, was on a Saturday, the Jewish Sabbath, the leaders of the National Council, representing the Jewish community in Palestine, met on Friday afternoon, May 14, and at 4:06 P.M. proclaimed the establishment of the independent State of Israel. At the same time, the National Council elected David Ben-Gurion⁶ as Prime Minister of the Provisional Council of Government and Dr. Chaim Weizmann⁷ as President, and nominated a Cabinet with representatives from the various political parties of the Jewish community.

The first nation to recognize Israel was the United States, on May 14, the day of statehood. The second was Guatemala, on May 15; and the third was the Soviet Union, on May 18. None of the Arab states at that time recognized Israel. By February 1, 1949, thirty-three countries, including Great Britain and Turkey, had recognized Israel.

Because of the avowed hostility of the Arab states to the creation of the State of Israel and their determination to isolate it, recognition

⁴ United Nations Palestine Commission, *Report to the General Assembly*, A/532, April 10, 1948, 10. See Colonial Office and Foreign Office, *Palestine: Termination of the Mandate, 15 May 1948*, British Information Services, 1948, for Great Britain's action in terminating the Mandate.

⁵ Several weeks before the adoption of the Resolution of November 29, 1947, while the debate was going on in the General Assembly, the Jewish Agency for Palestine and the National Council of the Jewish Community of Palestine met and created a Joint Emergency Committee to draw blueprints for the "Jewish State."

⁶ David Ben-Gurion, born in Russian-occupied Poland in 1886, settled in Palestine in 1906. Prior to statehood, he was Chairman of the Jewish Agency for Palestine and also in charge of its Security Department.

⁷ Dr. Chaim Weizmann (1874-1952), born in White Russia and later a citizen of England, was President of the World Zionist Organization prior to statehood.

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of its sovereignty by membership in the United Nations was extremely important. Israel applied for such membership on November 29, 1948. By the time the application was on the agenda of the Security Council for consideration, the first truce between Israel and the Arab states had failed and fighting broke out again. Despite support by the United States and the Soviet Union, the vote on December 17 was 5 (Argentina, Colombia, Soviet Union, United States, and the Ukraine) in favor, 1 (Syria) against, and 5 abstentions. Israel's application failed. Three months later, on February 24, 1949, the day the Armistice Agreement between Egypt and Israel was signed, the latter reapplied. By a vote of 9 to 1, the Security Council on March 4 recommended Israel's membership. Only Egypt opposed, and Great Britain abstained. On May 11, the General Assembly accepted the Security Council's recommendation and admitted Israel as the fifty-ninth member of the United Nations by a vote of 37 in favor, 12 against, and 9 abstentions. The states which voted against Israel were the Arab states and Afghanistan, India, Iran, and Pakistan, all of which had voted in 1947 against the establishment of the "Jewish State."⁸

Arab-Israel War: 1948–1949

Just as adoption of partition by the United Nations on November 29, 1947, was followed by Arab hostilities, Israeli statehood provoked armed attack. On May 15, the day after the establishment of the State of Israel, the armies of Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Transjordan, and Yemen invaded across all three borders of Israel with the asserted purpose of destroying that state and reclaiming its territory for Arab possession.

The war was bitterly fought and lasted, with the exception of two truce periods, over eight months and officially ended in a series of four armistice agreements in February–July, 1949. During the war, the United Nations Security Council made several unsuccessful attempts to end hostilities. On May 29, 1948, the United Nations Security Council passed a resolution ordering a cease-fire; and on June 11, after twenty-four days of fighting, the first truce went into effect. It did not last long, for war broke out again on July 8. A second truce was established by Security Council Resolution of July 15, and it lasted from July 18 to October 15, 1948. During this period, Count Folke Bernadotte of Sweden, who was appointed United Nations Mediator

⁸ General Assembly Resolution 273 (III) of May 11, 1949, *Official Records of the Third Session, Part II, Plenary Meetings of the General Assembly*, 1949, 330.

the previous May 20 to bring peace between Israel and the Arab states, was assassinated by Israeli terrorists in Jerusalem. He was replaced by Dr. Ralph J. Bunche of the United States.

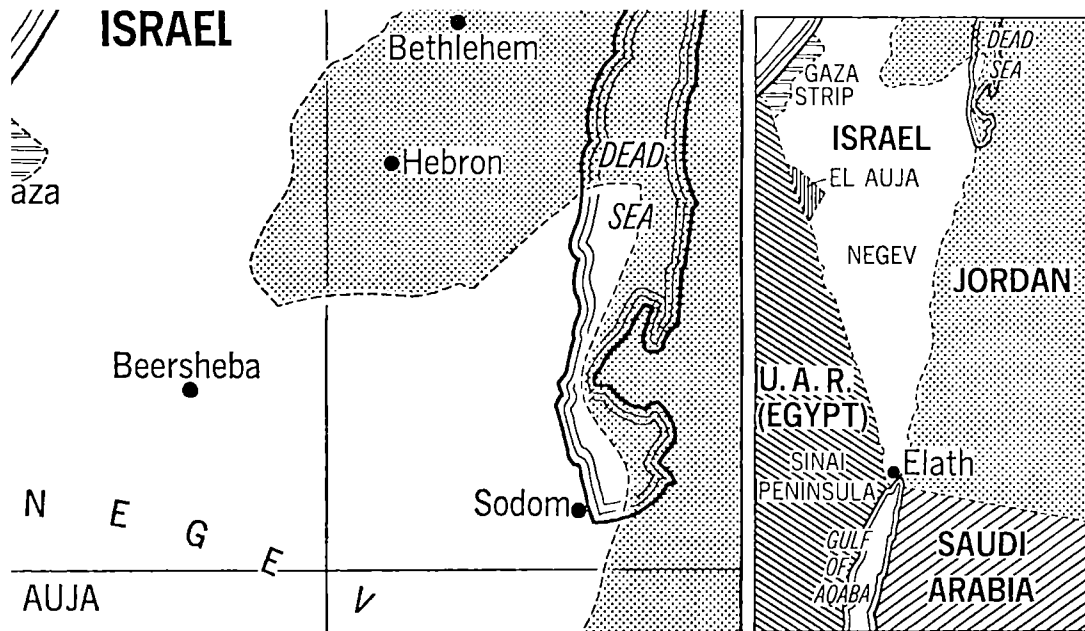
On November 16, 1948, the Security Council ordered the belligerents to enter into armistice agreements. A cease-fire was agreed to by Israel and Transjordan on November 30; and on December 13, the Transjordan Parliament approved the union of Transjordan and most of the territory of Arab Palestine. Despite the angry reactions of Egypt and Syria, this annexation of the territory assigned by the United Nations to the "Arab State" has remained in Jordan's⁹ possession ever since. The war, nevertheless, continued; and on December 29, 1948, the Security Council, at the request of Great Britain, passed a resolution calling for an immediate cease-fire. Great Britain enlisted the support of the United States, which sent a note to Israel on January 4, 1949, asking it to comply with the cease-fire and to open negotiations for an armistice. The next day, Israel accepted a proposal by Egypt, through the United Nations Mediator, providing for a cease-fire, withdrawal of forces and negotiations for an armistice agreement.

The war with Egypt ended on January 7, 1949; and on February 24, the Egyptian-Israeli General Armistice Agreement was signed. This first armistice was followed by successive agreements between Israel and Lebanon on March 23; between Israel and Transjordan on April 13; and between Israel and Syria on July 20. Iraq had already withdrawn her troops without a formal agreement but had allowed Transjordanian troops to take its positions. The armistice agreements, endorsed by the Security Council, provided, in addition to cessation of the war, for demilitarized areas on the borders of the armistice demarcation lines, for withdrawal of troops, and for the return of prisoners of war. The boundaries of Egypt, Israel and Jordan as changed by the war were acknowledged by the armistice agreements. Egypt gained control of the Gaza Strip, a twenty-eight mile piece of land formerly part of Palestine and which was allotted to the "Arab State" by the partition plan. Israel won almost 2,500 square miles of territory over that allocated to her by the partition Resolution; and Jordan acquired about 2,200 square miles along the west bank of the Jordan River which would have been part of the "Arab State." Finally, the El Auja zone in the south on the border of Egypt and Israel was demilitarized.

While the fighting was going on, hundreds of thousands of Arab inhabitants of Israel fled to surrounding Arab states and settled around Israel's borders. No provisions for them were made in the armistice

⁹ The name Transjordan was banned on April 26, 1949, in favor of the country's constitutional name, Hashemite Kingdom of Jordan, or Jordan for short.

Mediterranean Sea



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agreements. The agreements ended a large-scale conflict which threatened the peace of the world; but they were not followed by permanent peace treaties, nor did they result in recognition of Israel by the Arab states. Although the agreements specified that their intention was to provide a stage between truce and final peace, to this day no peace treaties have been negotiated and signed.

Israel's Geopolitical Position

The boundaries resulting from the war of 1948 are poorly defined. In the north, the frontier runs for forty-nine miles along Lebanon. In the northeast, the line runs through the Huleh marsh area for forty-seven miles, causing friction with Syria. The remainder of the eastern boundary is 332 miles long, shared with Jordan. Jerusalem is divided into Arab and Israeli sectors. In the south and southwest, the boundary with Egypt follows the Palestinian one for 165 miles except for the twenty-eight mile Egyptian-controlled Gaza Strip which extends along the Mediterranean coast.

Israel's land boundaries total 594 miles and water borders, 158 miles. In length, the country is 260 miles stretching from the hills of Galilee in the north to the Red Sea port City of Elath in the south. At its widest, south of Beersheba in the Negev Desert, Israel is seventy miles across; and north of Tel Aviv the country is only twelve miles wide, and at its southernmost tip at Elath in the Negev, nine miles wide. Israel is about the size of Massachusetts or New Jersey with a population about that of Arkansas or Oregon, a little over 2,000,000. Palestine under the Mandate consisted of approximately 10,000 square miles of territory. The United Nations partition plan allotted the "Jewish State" about 5,600 square miles; and Israel, as a result of the war with the Arab nations in 1948, added nearly 2,500 square miles of Arab land and now possesses 8,048 square miles of territory. Its population at the time of statehood totalled approximately 655,000.

Israel's geopolitical position is one which could make the country a center of communications between three continents — Asia, Africa, and Europe. Because of Arab hostility, however, it is cut off on all land frontiers from every adjacent country, and as a result, suffers the twofold strain of heavy military defense budgets and of geopolitical isolation. Israel separates Egypt and Syria; and its location on the borders of these two lands and of Jordan and Lebanon and its adjacency to Saudi Arabia serve as a barrier to unification or practical federation by these Arab states.

All of Israel's neighboring states are Arab: Egypt and Syria, which merged in 1958 to become the United Arab Republic; Iraq; Jordan;

Lebanon; and Saudi Arabia. Their combined territory amounts to more than 1,544,400 square miles with a total population of a little over 44,000,000. Actually, Iraq and Saudi Arabia do not border on Israel, but are sufficiently close to move troops through Jordan to Israel's frontiers. The territory of the other three states are contiguous to Israel. If one glances at a map of the Middle East, he will notice that five more Arab states are located in this region — Yemen, Libya, Sudan, Tunisia, and Morocco. While these nations are distant from Israel they nevertheless are links in a nearly complete chain of Arab states stretching almost the full length of the Middle East. When the territory and population of the latter five countries are added to Israel's five neighboring states, a total area of 3,486,707 square miles and about 73,214,900 people in Arab possession overshadow the 8,048 square miles and population of 2,000,000 which are Israel's.

As a Mediterranean country, Israel lies at the eastern end of the Mediterranean Sea, stretching along the Sea for 117 miles. This forms her western border and is her only free frontier. Lebanon, Jordan, and the United Arab Republic surround Israel on her three other sides. The southeastern frontier between Egypt and Jordan is separated by a small strip of land on the Gulf of Aqaba providing Israel with access to the Red Sea; but then movement in the Red Sea is between Egypt and Saudi Arabia.

As a Middle Eastern state, Israel is located in an ill-defined region¹⁰ most of whose countries are Arab or Moslem; and with the exception generally of Israel and Turkey, they are, by Western standards, economically, politically and socially underdeveloped. While the discovery of oil in a number of Arab lands has brought Western money to them, only little of this wealth has trickled down to the general population. Those Arab states endowed with oil deposits are today placed, moreover, in the position of prey not only of the Soviet Union, one of whose objectives is to take the oil out of Western hands, but also of Arab nationalist leaders who see themselves at the head of a huge Arab empire sweeping from the Atlantic Ocean to the Arabian Sea. Caught in the stream of these two crosscurrents of international tension — rivalry of the East and West for control of the Middle East and Arab nationalism — is the State of Israel, a land without oil, with a shortage of water, and generally poor in many other essential natural resources, but strategically situated as a "land bridge" between the Mediterranean and Red Seas.

¹⁰ G. Etzel Pearcy, *The Middle East, An Indefinable Region* (Washington, D.C.: U.S. Government Printing Office, 1959), and Roderic H. Davison, "Where is the Middle East?", *Foreign Affairs*, XXXVIII (July, 1960), 665-75.

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SUGGESTED READINGS

Alexander, Lewis M. "The Arab-Israeli Boundary Problem," *World Politics*, VI (April, 1954), 322-37.

Hurewitz, J. C. *The Struggle for Palestine*. New York: W. W. Norton & Co., 1950. Pp. 284-331.

Poliak, A. N. "Geopolitics of the Middle East," *Middle Eastern Affairs*, IV (August-September, 1953), 271-77.

2

Provisional Period

Provisional Council of Government May 14, 1948 to February 10, 1949

The United Nations General Assembly Resolution of November 29, 1947, required that the two states to be created in Palestine each establish a Provisional Council of Government to maintain law and order, prevent frontier clashes, regulate land, control immigration, and conduct a democratic national election for a constituent assembly which would draw up a constitution providing for a regular structure of government.¹ On May 14, 1948, as the Mandate ended and the British military and administrative forces departed from Palestine, the People's Council — which was formed to stand by as a parliament-in-waiting for statehood — met and proclaimed the establishment of the sovereign independent State of Israel, and declared that “the People's Council shall act as a Provisional Council of State, and its executive organ, the People's Administration, shall be the Provisional Government.”²

Having transformed itself from the People's Council into the provisional parliament of the new state, the Provisional State Council issued a Proclamation containing three important provisions: (1) the Provisional State Council was designated as the legislature but could delegate some of its legislative power to the Provisional Government (Cabinet) for the purpose of enacting urgently necessary legislation; (2) the British restrictions on immigration and land transfers were canceled; and (3) the laws which existed in Palestine on the day of statehood would continue in force except as they were changed

¹ Paragraphs 4–10, Section B, Part I, United Nations General Assembly Resolution 181 (II) of November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947*, A/519, January 8, 1948, 133–35.

² Declaration of the Establishment of the State of Israel, *Laws of the State of Israel*, I (5708–1948), 4.

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or eliminated by the Provisional State Council and insofar as they were consistent with the contents of the Proclamation, future laws, and the changes arising from the establishment of the state and its authorities.³

To amplify and implement provisions of the Proclamation, the Provisional State Council enacted a Law and Administration Ordinance on May 19, 1948.⁴ This Ordinance defined the composition, duties, powers and procedures of the various organs of national and local government, and provided for a legal system, levying of taxes, borrowing of funds, fixing of budgets, organization of the armed forces, registration of business enterprises and cooperative societies, and publication of legislative ordinances and administrative regulations in an *Official Gazette*.

Acknowledging the requirements of the United Nations General Assembly Resolution of November 29, 1947, the Law and Administration Ordinance created two basic governmental organs which the Resolution described as the fundamental components of the Provisional Council of Government. These were: (1) a Provisional State Council to serve as Israel's parliament, and (2) a Provisional Government to serve as the state's executive body responsible to the Provisional State Council.

No President of State was required by the United Nations Resolution or by the Declaration of the Establishment of the State of Israel, nor provided for by the Law and Administration Ordinance. However, the person selected by the Provisional State Council to be its president was regarded as the President of the State of Israel, but acted in that capacity solely with regard to the office's ceremonial and representative functions.

The Provisional State Council

Designated as "the legislative authority,"⁵ the Provisional State Council consisted of thirty-eight members. These members were not elected popularly, since no national election had yet taken place; they were the thirty-seven members of the People's Council and, in addition, Dr. Chaim Weizmann, who was chosen President of the Provisional State Council on May 16, 1948.

The People's Council had been formed in March, 1948, two months before statehood, in response to the United Nations General Assembly Resolution of November 29, 1947, with the purpose of becoming the

³ Proclamation of the Provisional State Council, *Laws of the State of Israel*, *ibid.*, 6.

⁴ Law and Administration Ordinance, 5708-1948, enacted May 19, 1948, *Laws of the State of Israel*, *ibid.*, 7-11.

⁵ Section 7, *ibid.*, 8.

Provisional State Council on British relinquishment of its Mandate over Palestine and the creation of the independent State of Israel. It was composed of: (1) the fourteen members of the former Executive of the National Council who performed as a cabinet for a body which consisted of thirty-seven delegates from all the political parties in the Jewish community of Palestine and which functioned in the Mandate period as an interim legislative power for that community's Elected Assembly; (2) eleven Palestinian members of the Executive of the Jewish Agency for Palestine; and (3) twelve additional members from those political parties and communities which were not represented in the Executives of the National Council or Jewish Agency.

Twelve political parties were represented in the Provisional State Council: Mapai, 12 members; General Zionists, 7; Mapam, 5; Revisionists, 3; Mizrachi, 2; Hapoel Ha-Mizrachi, 2; Agudat Israel, 2; New Immigrants, 1; Sephardim, 1; Yemenites, 1; Communists, 1; and Women's International Zionist Organization, 1. The body was empowered to prescribe its own procedures for conducting its meetings and business; and the laws enacted were called ordinances and had to be signed by the Prime Minister, Minister of Justice, and the minister or ministers charged with their implementation.⁶ Although authorized to fill vacancies in its membership,⁷ the Provisional State Council actually permitted the political parties concerned to name replacements. Authority was reserved to enlarge its own membership and also that of the Provisional Government by adding Arab representatives.⁸ While there were no Arab delegates in either the Provisional State Council or the Provisional Government, they were later elected to the Constituent Assembly and to each of the succeeding Parliaments.

On July 1, 1948, the Provisional State Council formulated the principles for party representation in the various committees to be created; and on July 8, the appointments were made. Eleven Committees were formed: Committee on Committees, Committee to Prepare for the Election of Representatives to the Constituent Assembly, Committee on the Constitution, Committee on Security, Committee on Finance and Economy, Committee on Legislation, Committee on Immigration, Committee on Foreign Affairs, Committee on the Interior, Committee on Flag and Symbol, and Committee on Public Schools.

All regulations and orders issued between November 29, 1947, the date of the United Nations Resolution on partition, and May 21, 1948, the day on which the Law and Administration Ordinance went into effect, by the Jewish Agency for Palestine, the National Council, the

⁶ Sections 1-7, *ibid.*, 7-8.

⁷ Section 1, Law and Administration (Amendment) Ordinance, 5708-1948, enacted June 3, 1948, *Laws of the State of Israel, ibid.*, 17.

⁸ Sections 1-2, Law and Administration Ordinance, 5708-1948, *ibid.*, 7.

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People's Administration, or by any of their departments, in order to secure the maintenance of supplies and essential services, were to "continue in force until varied, amended or revoked by or on behalf of the Provisional State Council."⁹

Although the provisional period was an emergency one, the Provisional State Council enacted many non-emergency ordinances of a basic and relatively permanent nature. A system of law and courts, including a supreme court, was established. Currency and postal systems were introduced. The economic and fiscal life of the country was organized and regulated, and emergency economic controls were instituted. Mandate restrictions on Jewish immigration and land purchase were repealed, and all Jews who had immigrated to Palestine illegally during the Mandatory period were declared to be legal immigrants as of the date of their arrival. Civil servants, including police personnel, who had worked for the Mandatory government were transferred to the appropriate departments of the new state. Finally, it made the preparations for its own replacement by a Constituent Assembly to which it assigned the mission of developing a constitution for the state that would lay the foundation of regular government for the country.

Lacking constitutional status of its own, the Provisional State Council operated under the provisions of the United Nations General Assembly Resolution of November 29, 1947, and the assertions of the Declaration of the Establishment of the State of Israel and the ensuing Proclamation. It formulated the basic procedures and set the fundamental practices for the later regularly elected and constituted Parliaments; and its ordinances provided the foundation for future constitutional government.

The Provisional Government

Although the Law and Administration Ordinance designated the thirteen members of the Provisional Government, or Cabinet, by name, it did not specify the position each would hold. Instead, it provided for the Cabinet to elect one of its members to be Prime Minister and to assign the various portfolios among and prescribe the functions of the ministers. Not only were the Cabinet ministers elected by the Provisional State Council from among its members, but they were also required to act in accordance with the policy laid down by the Provisional State Council, to carry out its decisions, and to report and be responsible to the legislative body.¹⁰

David Ben-Gurion, Chairman of the Jewish Agency for Palestine

⁹ Section 19, *ibid.*, 10–11.

¹⁰ Section 2, *ibid.*, 7.

and leader of the dominant political party, Mapai, was chosen to be Prime Minister by the Government on May 14, 1948. Seven parties were represented in the Cabinet according to their estimated strength among the populace.

Cabinet portfolios were designated by the Government itself. Twenty portfolios were distributed among the thirteen ministers as follows: Prime Minister and Minister of Defense (Mapai); Minister of Supply, Rationing and Agriculture (Mapai); Minister of Labor and Social Insurance (Mapai); Minister of Finance, Commerce and Industry (Mapai); Minister of Foreign Affairs (Mapai); Minister of Communications (Mapai); Minister of Education and Culture (Mapai); Minister of the Interior, Immigration and Health (United Religious Front); Minister of Social Welfare (United Religious Front); Minister of Religious Affairs (United Religious Front); Minister of Justice (Progressives); and Minister of Police (Sephardim).

The Government was authorized to confer any of its powers on the Prime Minister and any other minister as long as there was no conflict with any of the ordinances enacted by the Provisional State Council. Development of the procedures both for conducting its meetings and for carrying out its business was within the jurisdiction of the Government.¹¹ In addition, the latter was given broad powers not only with regard to carrying the country through the emergency, but also the variety of powers formerly vested in the administrative officials of the British Mandatory Government in Palestine. "Any power vested under the law in the King of England or in any of his Secretaries of State," the Law and Administration Ordinance provided, "and any power vested under the law in the High Commissioner, the High Commissioner in Council, or the Government of Palestine, shall henceforth vest in the Provisional Government, unless such power has been vested in the Provisional State Council by any of its Ordinances."¹² The Prime Minister and the other ministers were authorized by the Provisional State Council also to assume any power that the legislation concerned with their authority vested in certain officials for the purpose of implementing those legislative enactments.¹³ One of the first tasks of the Government was to establish armed forces and a military code and to provide for the defense of the new state against the invasion by surrounding Arab nations. The Law and Administration Ordinance specifically assigned this urgent mission to the Provisional Government.¹⁴

¹¹ *Ibid.*, 7-8.

¹² Section 14, *ibid.*, 9-10.

¹³ Section 1, Law and Administration (Further Provisions) Ordinance, 5708-1948, passed on July 1, 1948, *ibid.*, 26.

¹⁴ Section 18, Law and Administration Ordinance, 5708-1948, *ibid.*, 10.

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Emergency Regulations

The Law and Administration Ordinance empowered the Provisional State Council to declare a state of national emergency, if it felt that this was expedient. Such declaration had to be published in the *Official Gazette*; and then the Provisional Government could authorize the Prime Minister or any other minister to issue regulations in the interest of the security and defense of the nation and the maintenance of supplies and essential services. Emergency regulations could modify or suspend the effect of any law and even impose or increase taxes. Unless extended by an ordinance of the Provisional State Council or revoked by the authority making the regulation, emergency regulations would expire three months after they took force. Whenever the Provisional State Council should deem it fit to declare the cessation of the state of emergency and would so declare in the *Official Gazette*, all emergency regulations would expire on the dates prescribed in the declaration. These procedures for emergency regulations were similar to those for promulgating ordinary administrative regulations which the Provisional State Council had authorized ministers to issue to implement ordinances.¹⁵

A state of emergency was declared on May 19, 1948, by the Provisional State Council.¹⁶ In the nine months' duration of the provisional period, emergency regulations were issued covering such matters as blackouts and protection of glass panes, mobilization of manpower, control of ships, civil defense and shelters, customs levies, excise duties on intoxicating liquors and tobacco, registration of inhabitants, foreign travel, taxes on oil and kerosene, restriction on daily newspapers, army code, and cultivation of wastelands.

The regular Parliament and Cabinet established in March, 1949, inherited the emergency powers of the Provisional State Council and Provisional Government. Because of the continuing threat to the security of the State of Israel, the emergency powers of the legislative and executive organs of government have never been revoked.

Preparations for the Constituent Assembly

The terms of the Provisional State Council and Provisional Government were not fixed; the Declaration of the Establishment of the State of Israel asserted that the two bodies would function "until the establishment of the elected, regular authorities of the State in accordance with the Constitution which shall be adopted by the Elected Constituent Assembly not later than October 1, 1948."¹⁷ Actually,

¹⁵ Sections 8-10, *ibid.*, 8-9.

¹⁶ *Iton Rishmi*, No. 2, May 21, 1948, p. 6.

¹⁷ Declaration of the Establishment of the State of Israel, *ibid.*, 4.

it was not until October 28, 1948, that the Provisional State Council began to consider legislation concerning the Constituent Assembly; and on November 18, 1948, the Provisional State Council enacted the Constituent Assembly Elections Ordinance, which provided for the holding of a national election to choose delegates to the Constituent Assembly.¹⁸

On January 13, 1949, the Constituent Assembly (Transition) Ordinance was passed providing for the dissolution of the Provisional State Council and the transfer of its powers to the Constituent Assembly when the latter convened, and for the continuance in office of the Provisional Government until the establishment of a new cabinet by the Constituent Assembly.¹⁹ The Provisional State Council then fixed the date of the national election as January 25, 1949, drew up the election procedures, approved an election budget, and set the rules of procedure to guide the Constituent Assembly.

During their nine months' tenure, the Provisional State Council and the Provisional Government enjoyed the greatest loyalty and unity in Israel's political history. The severe party strife and cabinet crises which later characterize the nation's constitutional history, especially over the principle of collective cabinet responsibility, were non-existent in the provisional period. Primarily, this could be attributed to the dire need to mobilize the country's manpower and other resources and repel the Arab invaders.

Roots in the Mandate Period

Neither the People's Council and its successor, the Provisional State Council, nor the People's Administration and its successor, the Provisional Government, was new to Israel. Both the People's Council and the People's Administration, which were created in response to the United Nations General Assembly Resolution of November 29, 1947, and which waited for statehood in order to be transformed into the Provisional State Council and the Provisional Government respectively, had their roots in the Mandate period.²⁰ In reality, the Na-

¹⁸ Constituent Assembly Elections Ordinance, 5709-1948, enacted November 18, 1948, *Laws of the State of Israel*, II (5709-1948/49), 24-36.

¹⁹ Sections 1-4, Constituent Assembly (Transition) Ordinance, 5709-1949, enacted January 13, 1949, *Laws of the State of Israel*, II, *ibid.*, 81.

²⁰ Almost a year before statehood, a Joint Planning Committee of the National Council of the Jews in Palestine and the Jewish Agency for Palestine was established to prepare for independent government. The new structure of government was elected largely on the recommendations of this Committee in accordance with the broad requirements of the United Nations General Assembly Resolution of November 29, 1947. It was made clear by the Committee, however, that the new Government was not to be considered legally the successor to the Mandatory administration.

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tional Council of the Jews in Palestine formed the basis of the People's Council and later the Provisional State Council; and the Executive of the National Council formed the basis of the People's Administration and later the Provisional Government.

The origin of the National Council and its Executive dated back twenty-seven years before the United Nations Resolution which partitioned Palestine. On April 25, 1920, at San Remo, Italy, the Supreme Allied Council, representing the principal allied powers, allotted the Mandate for Palestine to Great Britain. A draft mandate was submitted by the British Government in December of the same year; and after a number of difficulties were ironed out among the United States, France, and Great Britain, the Palestine Mandate was approved by the Council of the League of Nations on July 24, 1922, and came into force on September 29, 1923, after Turkey signed the Treaty of Lausanne.

During the period 1923–1947, in which Great Britain administered the Mandate of Palestine, two Jewish quasi-governments existed interdependently side by side, one for the Jewish community residing in Palestine, and another for the development in Palestine of “a national home for the Jewish people” as promised in the Balfour Declaration on November 2, 1917.²¹ Both types of self-governing institutions were authorized under the terms of the Mandate.²²

Jewish Community Quasi-Government. The Jewish community quasi-government came into existence as early as 1920 when British military occupation was replaced by a civil administration consisting of a High Commissioner and staff and an Advisory Council. It was formed after the Jewish community in Palestine held its first election. Its status, however, was not officially recognized until the British Mandatory authorities enacted the Jewish Community Regulations eight years later.²³ An Elected Assembly (*Assefath Hanivcharim*) was chosen in secret ballot, according to proportional representation, by

²¹ Approved by the British Cabinet, the Declaration was issued by Foreign Secretary Arthur J. Balfour on November 2, 1917. It was conveyed in a letter to Lord Lionel Walter Rothschild expressing “sympathy with Jewish Zionist aspirations.” To this day it is the subject of controversy and conflicting interpretations. For the text see the *New York Times*, November 9, 1917, p. 3, or J. C. Hurewitz, *Diplomacy in the Near and Middle East, A Documentary Record: 1914–1956* (Princeton: D. Van Nostrand Co., 1956), II, 26.

²² Articles 2 and 4. For the text of the Mandate see Hurewitz, *ibid.*, II, 106–11.

²³ Jewish Community Regulations of 1928, *Official Gazette of the Government of Palestine*, No. 202, (January 1, 1928), 10–19.

all Jews over twenty years of age who had resided three months or longer in Palestine.

Serving as a quasi-parliament in the Jewish community, the Elected Assembly met at least once a year; and between sessions its powers were exercised by a National Council (Va'ad Leumi), appointed by the Elected Assembly from among its own members. In turn, the National Council selected from its membership an Executive which acted as a cabinet exercising administrative power over the Jewish community through a number of departments concerned with defense, education, health, social welfare, culture, and religious affairs. Having legal authority enforceable in the civil courts, the National Council taxed all members of the Jewish community for education, health and other social services and for maintenance of the Jewish religious courts.

Jewish Development Quasi-Government. Article 4 of the Mandate provided for recognition of "an appropriate Jewish agency" to advise and cooperate with the Mandatory authorities in Palestine "in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country."²⁴ In accordance with this provision of the Mandate, the World Zionist Organization, recognized as the Jewish development quasi-government, acted as an official advisory body cooperating with the Mandate authorities in agricultural colonization, building, immigration, industry, and land purchase in the interest of promoting and developing the "Jewish national home" in Palestine.

Until 1929, the Jewish development quasi-government was solely in the hands of the World Zionist Organization. That year, the Jewish Agency for Palestine was created to enlist non-Zionist support for a "Jewish national home"; and the two organizations, paralleling each other in structure, became collaborators in the administration of the affairs concerning the eventual establishment of the "Jewish national home." In 1934, an enlarged Jewish Agency for Palestine was formed providing equal representation for Zionists and non-Zionists on its governing bodies. It took over all responsibility for the development of the "Jewish national home," while the World Zionist Organization concerned itself primarily with directing the Zionist movement and with managing its land-purchasing agency, the Jewish National Fund.

Experience in Self-Rule. The Jewish community and development quasi-governments functioned cooperatively. The National Council

²⁴ Art. 4, Mandate in Hurewitz, *Ibid.*, II, 107-8.

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appointed two representatives to the Zionist General Council, which was the supreme body of the World Zionist Organization in the periods between sessions of the World Zionist Congress; and the president of the World Zionist Organization was automatically the president of the Jewish Agency for Palestine.

Both the Elected Assembly and the National Council often acted boldly and expressed independent opinions and even criticism of British Mandatory policy. By 1935, the Jews in Palestine, outnumbering the Jews of other countries represented on the Executives of both the World Zionist Organization and the Jewish Agency for Palestine, were administering their own community affairs and were receiving valuable experience in self-rule. The various departments of the two quasi-governments were staffed with residents of the Jewish community in Palestine, with the result that a core of civil servants was also being trained for the eventual "Jewish national home" in Palestine.

The National Council and the Elected Assembly were considered by the average Palestinian Jew as truly representing the sovereign power of his country. In fact, the decisions of these bodies were considered binding on the Jewish community, whereas regulations of the British Mandatory government were generally obeyed with reluctance.

British Mandatory Government. The British civil administration in Palestine consisted of a High Commissioner, a Chief Secretary, and an Advisory Council over which the High Commissioner presided. This Council was composed of twelve official members representing the Mandatory administration, and ten non-official members comprising four Moslems, three Jews and three Christians representing their respective communities in Palestine. Although these non-official members possessed no legislative or administrative authority, they were given the opportunity to criticize drafts of proposed Mandatory ordinances and to raise questions for consideration by the British authorities in Palestine.

Insofar as departmental organization and procedures were concerned, Mandatory government resembled in many aspects administration in England. Under the British administration of Palestine, there existed some forty departments, in which many Palestinian Jews were employed. Some of these separate Departments were: the Accountant General, Administrator General, Agriculture and Fisheries, Antiquities, Attorney General, Audit, Civil Aviation, Cooperatives, Custody of Enemy Property, Customs and Excise, Education, Food, Foreign Exchange Control, Forests, Health, Income Tax, Labor, Land Registration, Land Settlement, Legal, Police and Prisons, Ports, Posts and Telegraphs, Public Works and Surveys, Railways, Road Transport Control, Town Planning, Veterinary Service, and Welfare.

Adaptations by the Provisional Government. In general, the Ministries in the Provisional Government were transformations of departments and bureaus which existed under the Executive of the National Council, the Executive of the Jewish Agency for Palestine, and the Mandatory administration. The Departments of Defense, Health, Religious Affairs, and Social Welfare of the National Council's Executive, for example, became respectively the Ministries of Defense, Health, Religious Affairs, and Social Welfare in Israel's Government, while the Departments of Culture and Education were consolidated to form the Ministry of Education and Culture. Similarly, the Financial, Immigration, Labor, Political, and Trade and Industry Departments of the Executive of the Jewish Agency for Palestine became respectively the Ministries of Finance, Immigration, Labor, Foreign Affairs, and Commerce and Industry in the Provisional Government.

With regard to Mandatory administration, its forty or so departments were taken over by the Provisional Government and allocated among the latter's thirteen ministries. Accordingly, the Mandatory Departments of the Accountant General, Custody of Enemy Property, Customs and Excise, Foreign Exchange Control, and Income Tax were absorbed by the Israeli Government's Ministry of Finance; the Administrator General's, Attorney General's, Land Registration, Land Settlement, and Legal Departments were taken over by the Ministry of Justice; the Departments of Agriculture and Fisheries, Forests, and Veterinary Service and the Irrigation Branch in the Department of Land Settlement were absorbed by the Ministry of Agriculture; and the Departments of Antiquities and Education were absorbed by the Ministry of Education and Culture. Town Planning, a separate department in the Mandate administration, was absorbed by the Provisional Government's Ministry of the Interior. The Departments of Civil Aviation, Ports, Posts and Telegraphs, Railways, and Road Transport Control were taken over by the Ministry of Communications; and the Departments of Cooperatives, Labor, and Public Works and Surveys were absorbed by the Ministry of Labor and Social Insurance.

Some separate Mandatory departments were reorganized by the Israeli Government and became individual ministries. For example, the Department of Police and Prisons became the Ministry of Police; and the Food Department became the Ministry of Supply and Rationing. The Ministries of Defense, Foreign Affairs, Justice, and Religious Affairs in the Provisional Government had no counterparts in the Mandatory administration but existed in departmental form under both Executives of the Jewish Agency for Palestine and the National Council. Likewise, the National Council and the Mandatory adminis-

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tration had similar departments as, for example, a Department of Social Welfare; in such cases, the Provisional Government absorbed both departments. In a number of instances, parallel departments functioned simultaneously in all three governmental bodies; these were totally absorbed by Israel's Government.

Inadequacy of Pre-Statehood Experience. Regardless how substantial and valuable the experience in government that was acquired during the Mandate period proved to be in the provisional and transitional phases shortly after statehood, it was hardly sufficient and effective for coping with long-range internal and external problems of a small new nation which was: (1) strategically located in the Middle East and caught between an East and a West competing for the support of the Arab countries; (2) continually threatened with renewed invasion by surrounding Arab states which have been aroused by nationalism and which have imposed blockades and boycotts against Israel; (3) constantly confronted with economic difficulties arising out of a huge influx of immigrants, heavy military budgets, lack of essential natural resources, unfavorable balances of payments, shortage of industrial and farm labor, and insufficient food, housing, machinery, and transport; and (4) periodically torn by political and religious conflicts which have frequently caused the fall of Governments.

In the face of such severe and persistent problems, the experience gained in the Mandate era hardly proved adequate either in anticipating the nature and intensity of later situations or in producing sufficient numbers of leaders and trained administrators for coping with the many, varied, and complex issues of this strife-torn age.²⁵

The Constituent Assembly February 10, 1949 to March 8, 1949

In its plan of partition, the United Nations General Assembly Resolution of November 29, 1947, not only prescribed the framework of the future constitution and government, but it also laid down a timetable for their creation. "The Provisional Council of Government of each State shall, not later than two months after the withdrawal of

²⁵ Actually, the senior administrative positions in the British Mandatory administration had been closed to Arabs and Jews; only the junior jobs were open to them. In addition, the British did not promote nationalist feelings among the Arabs and Jews for the country as a whole; instead, the emphasis on community development and the fostering of self-government, especially among the Jews, led to the strengthening of the feeling of allegiance to the community and its representative political bodies.

the armed forces of the mandatory Power, hold elections to the Constituent Assembly which shall be conducted on democratic lines."²⁶ In line with this requirement, the Declaration of the Establishment of the State of Israel, adopted May 14, 1948, called for the establishment of a constituent assembly to fulfill the obligations imposed by the Resolution.²⁷

The Constituent Assembly created by the State of Israel came into existence as the result of legislative action by the Provisional State Council and of a national election. This did not occur, however, within the two-months prescription of the United Nations Resolution. The British armed forces departed from Israel on May 14, 1948; but the election for delegates to the Constituent Assembly was not held until January 25, 1949. On January 13, two weeks before the election, the Provisional State Council passed the Constituent Assembly (Transition) Ordinance which provided for the convening of the Constituent Assembly after the election and for the transfer of the Council's powers to the new body.²⁸ The election was conducted as directed by the Provisional State Council in its Constituent Assembly Elections Ordinance;²⁹ and the delegates were elected in an atmosphere of excitement mixed with apprehension.

Composition of the Constituent Assembly

"The number of delegates to the Constituent Assembly shall be 120," the Constituent Assembly Elections Ordinance provided.³⁰ The 120 delegates elected represented twelve political parties; 108 were men and 12 were women. Of the 120, 117 were Jews and three were Arabs. There were 35 farmers, 19 labor union officials, 18 writers, 12 lawyers, 10 businessmen, 8 professional politicians, 5 rabbis, 5 manual laborers, 3 bank directors, 2 teachers, 2 mayors, and 1 university professor. Fewer than twenty had been born in Palestine.

Convening of the Constituent Assembly

The first session of the Constituent Assembly was opened in Jeru-

²⁶ Par. 9, Sec. B, Part I, United Nations General Assembly Resolution 181 (II) of November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947*, A/519, January 8, 1948, 134.

²⁷ Declaration of the Establishment of the State of Israel, *Laws of the State of Israel*, I (5708–1948), 4.

²⁸ Section 3, Constituent Assembly (Transition) Ordinance, 5709–1949, enacted January 13, 1949, *Laws of the State of Israel*, II (5709–1948/49), 81.

²⁹ Constituent Assembly Elections Ordinance, 5709–1948, passed November 18, 1948, *Laws of the State of Israel*, II, *ibid.*, 24–36.

³⁰ Section 8, *ibid.*, 25.

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salem by Dr. Weizmann on February 14, 1949. This was in keeping with the Constituent Assembly Elections Ordinance, which required the new body to convene "not later than ten days after the publication of the election results."³¹ A Speaker and two Deputy Speakers were elected; and Credentials, Steering, Transitional, and Small Constitution Committees were appointed. The following day, the Committee on Credentials reported it had not challenged the eligibility of any of the delegates; and, on February 16, the Committee on the Small Constitution presented the first major bill, dealing with the establishment of a regular structure of government and classified as a proposed "small constitution."

Enactment of "The Small Constitution"

The debate on the bill did not last long. Before the day ended, the Constituent Assembly enacted it under the title of Transition Law, 5709–1949, with the official classification of "The Small Constitution."³² The State of Israel has been functioning under this law ever since. Prepared by the Provisional Cabinet of Prime Minister Ben-Gurion, who advocated postponing indefinitely the drafting of a written constitution, "The Small Constitution" — so designated because it consisted of fifteen brief sections — created a republican form of government with a weak president, a strong cabinet, and a powerful parliament exercising a large degree of control over both the president and the cabinet.

Selection of the President of Israel

That same day, the Constituent Assembly elected Dr. Weizmann President of Israel. On February 17, after President Weizmann had been sworn in, the Provisional Government formally resigned. Following consultation with the leading representatives of the major political parties, President Weizmann charged Ben-Gurion, leader of Mapai, which gained a plurality of seats in the election, with the responsibility of forming the first regular Government.

Transformation of the Constituent Assembly into the First Knesset

The Constituent Assembly held six meetings in Jerusalem, during which it enacted legislation that laid the foundation and formulated the procedures for constitutional government. At its seventh session, held in Tel Aviv on March 8, 1949, the Constituent Assembly trans-

³¹ Section 9, *ibid.*, 25.

³² Transition Law, 5709–1949, enacted on February 16, 1949, *Laws of the State of Israel*, III (5709–1949), 3–4.

formed itself into a regular Parliament — the First Knesset; and the same day, Ben-Gurion submitted the names of the members of his proposed cabinet and his program. The Government was to be based on a coalition of Mapai with the United Religious Front, Progressives, and Sephardim. Two days later, the Knesset approved the first regular Government by a vote of 73 to 45.

The provisional character of the state had been discarded. A national election had taken place, the regular Parliament was formed, a President of the State was selected, and the Cabinet with a full, ambitious program was formally approved. The Republic of Israel went into full constitutional operation on March 10, 1949.

The Question of a Constitution

The United Nations Resolution of November 29, 1947, which partitioned Palestine and called for the creation of independent Arab and Jewish states and a special international regime for the City of Jerusalem, required each of the new states to be formed to adopt a written constitution. "The Constituent Assembly of each State shall draft a democratic constitution for its State. . . ."³³

In addition, the Resolution set out a number of provisions to be included in the constitution. These were: (1) establishment of a legislative body elected by universal suffrage and by secret ballot on the basis of proportional representation, and an executive body responsible to the legislature; (2) settling by peaceful means all international disputes in which the state may be involved; (3) acceptance of an obligation to refrain, in its international relations, from the threat or use of force against the territorial integrity or political independence of any state; (4) guaranteeing to all persons equal and non-discriminatory rights in civil, political, economic, and religious matters, and the enjoyment of human rights and fundamental freedoms, including freedom of religion, languages, speech and publication, education, assembly, and association; and (5) preservation of freedom of transit and visit for all residents and citizens of the other state in Palestine and the City of Jerusalem, subject to considerations of national security, and free access for everyone desiring to visit the holy places.³⁴

The Declaration of the Establishment of the State of Israel, pro-

³³ Par. 10, Sec. B, Part I, United Nations General Assembly Resolution 181 (II) of November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947*, A/519, January 8, 1948, 135.

³⁴ *Ibid.*, 134–37.

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In addition, the Resolution set out a number of provisions to be included in the constitution. These were: (1) establishment of a legislative body elected by universal suffrage and by secret ballot on the basis of proportional representation, and an executive body responsible to the legislature; (2) settling by peaceful means all international disputes in which the state may be involved; (3) acceptance of an obligation to refrain, in its international relations, from the threat or use of force against the territorial integrity or political independence of any state; (4) guaranteeing to all persons equal and non-discriminatory rights in civil, political, economic, and religious matters, and the enjoyment of human rights and fundamental freedoms, including freedom of religion, languages, speech and publication, education, assembly, and association; and (5) preservation of freedom of transit and visit for all residents and citizens of the other state in Palestine and the City of Jerusalem, subject to considerations of national security, and free access for everyone desiring to visit the holy places.³⁴

The Declaration of the Establishment of the State of Israel, pro-

³³ Par. 10, Sec. B, Part I, United Nations General Assembly Resolution 181 (II) of November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947*, A/519, January 8, 1948, 135.

³⁴ *Ibid.*, 134–37.

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claimed on May 14, 1948, acknowledged the United Nations Resolution and asserted that an elected constituent assembly would meet and adopt a constitution not later than October 1, 1948.³⁵ This deadline was not met because of the involvement of Israel in defense against Arab military invasion. However, during the period, the Provisional State Council discussed the requirements of the Resolution and appointed a special committee to prepare a written constitution for the new republic. A draft, written primarily by Dr. Leo Kohn, political advisor to Prime Minister Ben-Gurion and an authority on constitutions who was head of the special drafting committee, was submitted to a subcommittee of the Provisional State Council during the autumn of 1948.

On November 18, 1948, the Provisional State Council, in conformance with the United Nations' Resolution and the Declaration of the Establishment of the State of Israel, enacted the Constituent Assembly Elections Ordinance ordering a national election to be held for a constituent assembly;³⁶ and on January 13, 1949, the Council passed the Constituent Assembly (Transition) Ordinance authorizing the transfer of all of its powers to the constituent assembly.³⁷ The Constituent Assembly, formed as a result of the election of January 25, 1949, functioned until March 8, 1949, when it transformed itself into the First Knesset.

During the three weeks of its existence, the Constituent Assembly enacted the Transition Law of February 16, 1949,³⁸ which has continued to serve as Israel's foundation of constitutional government. Yet, the Transition Law cannot be considered a true constitution in compliance with the General Assembly Resolution. The Constituent Assembly which had transformed itself into a regular Parliament, had failed to draw and adopt a formal constitution. In fact, the draft constitution prepared by Dr. Kohn and put aside by the Constituent Assembly was introduced to the First Knesset on its opening day.³⁹ The debate on the draft and on the entire question of whether a written constitution should be adopted continued from March 8, 1949, to June 13, 1950.

³⁵ Declaration of the Establishment of the State of Israel, *Laws of the State of Israel*, I (5708-1948), 4.

³⁶ Section 1, Constituent Assembly Elections Ordinance, 5709-1948, passed on November 18, 1948, *Laws of the State of Israel*, II (5709-1948/49), 24.

³⁷ Section 3, Constituent Assembly (Transition) Ordinance, 5709-1949, *Laws of the State of Israel*, II, *ibid.*, 81.

³⁸ Transition Law, 5709-1949, enacted February 16, 1949, *Laws of the State of Israel*, III (5709-1949), 3-4.

³⁹ For the text and discussion of the draft constitution, see the *New York Times*, December 10, 1948, p. 6, and Norman Bentwich, "Israeli Draft Constitution," *Juridical Review*, LXI (April, 1949), 63-70.

Arguments Against a Written Constitution

Premier Ben-Gurion and other leaders of the Mapai opposed the adoption of a written constitution. They insisted that there was no need to rush, pointing to the United States' taking eleven years to draft and adopt its Constitution and then having to amend it fundamentally four years later with the Bill of Rights.⁴⁰ Their strongest argument was that England does not have a written constitution and is a democratic nation. Furthermore, they argued, the populations of these two countries have been stable, whereas Israel's population had already doubled and would soon be tripled. Ben-Gurion urged, therefore, that no written constitution be adopted until Israel's population stabilized and the threat of Arab invasion vanished. As relations with the surrounding Arab countries then stood, he maintained, the practice of equal rights and full civil liberties for Arabs was not practicable and could undermine the very existence of the state.

Ben-Gurion asserted further that serious religious conflicts might arise in connection with the incorporation of legal principles in a formal constitution, and that these could threaten the stability of the nation at a time when its existence was precarious. The ultra-orthodox religious groups were condemning the draft constitution for not proclaiming as its basis the Old Testament and the Talmud;⁴¹ and Mapam and the Communists criticized it for attempting to give permanency to the religious courts. Accordingly, the Prime Minister insisted, realism, expediency, and security demanded postponing the adoption of a written constitution.

Constitution by Evolution

On June 13, 1950, after prolonged debate, the Knesset voted 50 to 30, with the United Religious Front abstaining, to postpone indefinitely the adoption of a formal constitution, and resolved to allow a constitution to develop over an unspecified period of time by evolution through specific acts of legislation designated as "fundamental laws." The Resolution provided:

⁴⁰ Ben-Gurion and others who stated that eleven years were needed for the final adoption of the Constitution of the United States erred. They apparently assumed that 1776, the date of the Declaration of Independence, was the starting year for the drafting of the Constitution which was adopted in 1787. Actually, they confused the Constitution with the Articles of Confederation. The latter was adopted by the Continental Congress in 1777, not 1776; and it went into effect in 1781, and was superseded by the Constitution six years later.

⁴¹ The Talmud is the body of Jewish civil and canonical law as developed chiefly in the commentaries on the Old Testament by the acknowledged rabbinical leaders over the period 330 B.C. to about 500 A.D. It can be described as the compendium of Jewish common law.

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The First Knesset directs the Constitution, Law and Justice Committee to prepare a draft Constitution for the State. The Constitution shall be constructed article by article in such a manner that each shall in itself constitute a fundamental law.

Each article shall be brought before the Knesset as the Committee completes its work, and all the articles together shall comprise the State Constitution.⁴²

Ultimately, these "fundamental laws" might be consolidated in a single document of which they would form individual chapters. In order to consider this possibility and to provide machinery for designating "fundamental laws," the Knesset assigned to its Constitution, Law and Justice Committee the responsibility of meeting regularly as a Subcommittee of the Whole in the capacity of the Subcommittee for Fundamental Laws.

Arguments for a Written Constitution

Opponents of postponement argued that the people of Israel and the original legislators of the provisional period looked to the adoption of a permanent constitution by the Constituent Assembly — such a body's usual preoccupation. Instead, the Constituent Assembly became the First Knesset without drawing and adopting a constitution. Furthermore, they maintained, Israel was the product of the twentieth century when the experience and knowledge of other states and their constitutions could be utilized, rather than the product of the colonial eighteenth century when constitutions were practically unknown and new ones had to be written without previous experience and guidance.

In the opinion of these advocates of a written document, the concept of a constitution by evolution was no real solution because the laws designated as "fundamental" could be amended or repealed by simple majority vote of the Knesset at any time. A constitution, they insisted, should not be changed in the same manner as ordinary law, but by a two-thirds or three-fourths majority, or by some other extraordinary procedure. As for waiting for the future, this was unrealistic and immature. No country which adopted a formal constitution had been able to foresee its future. Should not present residents, many of whom fought to win independence, be entitled to constitutional safeguards of personal rights and liberties? The Declara-

⁴² *Divrei Ha-Knesset*, First Knesset, Second Session, 151st Meeting, June 13, 1950, III (1949-1950), 1743. Mapai, Progressives and Sephardim voted for the Resolution, while Mapam, Herut, and General Zionists voted against it. The United Religious Front abstained, declaring it could not vote for a measure which did not guarantee basing any form of constitution on orthodox religious doctrine.

tion of the Establishment of the State of Israel, they contended, like the Declaration of Independence of the United States, was not legally binding, and neither were its assertions of freedoms and rights. Consequently, arbitrary government could be a latent danger in Israel unless a written constitution were adopted containing a specific bill of rights.

Current Status of the Question

Israel has no formal constitution. The state's fundamental political structure, including the powers and functions of the Knesset, Government, and President, rests on a number of laws, most important of which is the Transition Law of 1949. Designated as "The Small Constitution," the Transition Law and its amendments form the basic source of constitutional government in Israel.

As yet, the Knesset Resolution of June 13, 1950, providing for a constitution by evolution through compilation of fundamental laws, has not been implemented. While a number of laws possess some degree of relative permanency in that they treat basic constitutional subject matter, they were not designated as "fundamental laws" and were not consolidated in formal chapters of the constitution. Neither the Transition Law of 1949 nor any previous or subsequent law dealing with constitutional matters has the formal character of a constitution. The Transition Law of 1949 does not differ from any other law passed by the Knesset. It is no more or less permanent than other laws, nor are any other laws subject to its provisions.⁴³

Dr. Benjamin Akzin of Hebrew University, Jerusalem, political scientist and acknowledged authority on constitutional law, has expressed the opinion that "Israel, a modern-minded nation by any standards, concerning whose desire to exercise self-restraint under the rule of law there can be no serious doubt, but also a temperamental and dogmatically-inclined nation, may be committing serious error in being too slow to adopt that elementary safeguard of stability, a formal constitution, which so many other nations have found useful."⁴⁴ While other Israeli political scientists and experts in public law have expressed similar opinions and have recommended that a formal constitution be adopted, the Mapai Party, led by Ben-Gurion, has persistently rejected any such proposal.

⁴³ U. Yadin, *Legislation in Israel* (Jerusalem: The Government Printer, 1955), p. 5.

⁴⁴ Benjamin Akzin, "On the Stability and Reality of Constitutions," in *Scripta Hierosolymitana: Publications of the Hebrew University, Jerusalem, Studies in Economic and Social Sciences, III* (Jerusalem: The Magnes Press, the Hebrew University, 1956), p. 338.

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SUGGESTED READINGS

- Ben-Gurion, David. *Rebirth and Destiny of Israel*. New York: Philosophical Library, Inc., 1954. Pp. 363–80.
- Dunner, Joseph. *The Republic of Israel: Its History and Its Promise*. New York: McGraw-Hill Book Co., 1950. Pp. 116–25.
- Joseph, Bernard. *British Rule in Palestine*. Washington, D. C.: Public Affairs Press, 1948.
- Kohn, Leo. "The Constituent Assembly of Israel," *Israel and Middle East*, I (January, 1949), 6–7.
- Lehrman, Hal. *Israel: The Beginning and Tomorrow*. New York: William Sloane Associates, 1951. Pp. 12–56.
- Rackman, Emanuel. *Israel's Emerging Constitution, 1948–51*. New York: Columbia University Press, 1955.
- Samuel, Edwin. *Problems of Government in the State of Israel*. Jerusalem: Rubin Mass, 1956. Pp. 34–39.
- State of Israel. *Government Yearbook, 5711–1950*. Jerusalem: The Government Printer, 1950. Pp. 59–60.

3

The Knesset: Israel's Parliament

"The Knesset¹ is the parliament of the State," asserted the Basic Law (The Knesset), 5718–1958, which governs Israel's legislative system.² A unicameral body consisting of 120 members,³ the Knesset has powers defined mainly by law but also partially by Western European parliamentary practice. In many respects, the Knesset is similar to the British Parliament. It not only legislates, but also checks on the Government and its administration, and reviews and exercises a considerable degree of direction of domestic and foreign affairs. Also, its legislative authority is supreme. The Supreme Court of Israel may not nullify an act of the Knesset; nor may the President or Prime Minister exercise a veto of Knesset enactments. The Knesset differs fundamentally from the British legislature both in that it is a one-chamber Parliament elected by proportional representation instead of single-member constituencies, and in that the Knesset's political representation is multi-party, while the British Parliament seldom seats more than three parties.

Members of the Knesset are elected by universal suffrage of citizens

¹ The word "Knesset" is Hebrew for assembly, community, or congregation. Historically, it was the name of the Great Assembly, Ecclesia or Synagoga Magna, which was the supreme parliamentary authority under Ezra and Nehemia in the 4th and 5th Centuries B.C.

² Section 1, Basic Law (The Knesset), 5718–1958, passed on February 12, 1958, *Laws of the State of Israel*, XII (5718–1957/58), 85. This law consolidated provisions of a number of laws pertaining to the Knesset over the ten-year period since statehood, especially the Transition Law of 1949, which designated the legislative body of the State of Israel as the "Knesset" and described a delegate to the Constituent Assembly as a "member of the Knesset."

³ Section 3, Basic Law (The Knesset), *ibid.*, 85.

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of eighteen years of age or over, secret ballot, and party list system of proportional representation. Each party places before the electorate a list of candidates for the 120 seats; and its percentage of the total votes cast determines the number of the party's seats in the Knesset.⁴

Functions of the Knesset

The Knesset's functions are broad and varied, covering all areas of government, both domestic and foreign. It passes laws, resolutions, and emergency regulations. It confirms the Government, passes on its policies and programs, and supervises the administration and enforcement of laws and administrative regulations. It ratifies treaties and conducts inquiries into the conduct of foreign relations. It elects the President of Israel, and may declare him to be temporarily or permanently incapacitated, or may oust him from office. It levies taxes, passes on the budgets, appropriates moneys for the operations of government, and exercises control over the economy. It provides a forum for debate on important public issues.

In addition to these functions, the Knesset has wide powers to investigate, impose penalties and sanctions, and grant or withdraw immunities. It can topple the Government, dissolve itself, and call for a new national election; and it appoints the Central Election Committee to supervise the holding of the election according to the procedures it alone may prescribe.

Qualifications of a Knesset Member

Although a person need not be a citizen of Israel to be elected its President, he must be a citizen in order to serve as a member of the Knesset. Besides requiring citizenship, a candidate must be twenty-one years of age or over on the day that the list containing his name is submitted.⁵

The right of an Israeli citizen to be elected to the Knesset may not be taken from him except by the courts and in accordance with the law. By virtue of and while holding certain offices, on the other hand, a number of individuals do not have the right to be candidates for the Knesset. Included here are the President of the State of Israel, the State Comptroller, judges, rabbis and ministers of other religions, the Chief of the General Staff and regular Army officers of all ranks, and senior civil servants.⁶

⁴ Sections 4-5, *ibid.*, 85.

⁵ Section 6, *ibid.*, 85.

⁶ Sections 6-7, *ibid.*, 85.

Term of Office

When the Constituent Assembly transformed itself into the First Knesset on March 8, 1949, there was no fixed term of office for Parliament. This matter was left for the legislative body itself to decide on the basis of when it determined another national election would be held.

As a result, the First Knesset terminated its plenary sessions on July 17, 1951, but remained in office until August 20, 1951. On the latter date, the Second Knesset was inaugurated following the election of July 30, 1951. The term of the Second Knesset was fixed by a law passed by the First Knesset in April, 1951, at four years from the day of its convening. This law specifically declared that its provisions applied not only to the Second Knesset but to the Third and any subsequent Knesset unless changed by legislation.⁷ On February 12, 1958, the Knesset passed the Basic Law (The Knesset) setting the term of its office at four years from the day on which it is elected, but directing an outgoing Knesset to continue to hold office until the incoming one convenes.⁸ The Second Knesset's term ended on July 30, 1955; and the Third Knesset took office on August 15, 1955, serving until November 3, 1959, the day of election and when the Fourth Knesset's tenure began.

Dissolution

No public officer or body other than the Knesset itself may dissolve Israel's Parliament and call for a new election prior to the expiration of its term of office. The procedure followed in this event is one of enacting a law providing for dissolution and fixing a date for the election to the next Knesset. If the Knesset decides to dissolve itself, the term of office of the next Knesset is the full four-year period from the date of the election and, in addition, the time between the termination of the four years and the next new election date.⁹ Only once thus far has the Knesset dissolved itself and called for a new election. This occurred on March 28, 1961, when the Knesset, as a result of the crisis caused by the "Lavon Affair" and the inability of Ben-Gurion to form a new Government, voted unanimously to dissolve and set the following August 15 as the date for new elections.

⁷ Sections 7 and 10, Second Knesset (Transition) Law, 5711-1951, passed on April 4, 1951, *Laws of the State of Israel*, V (5711-1950/51), 95.

⁸ Sections 8 and 37, Basic Law (The Knesset), *ibid.*, 85, 88.

⁹ Sections 34-36, *ibid.*, 88.

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Termination of Tenure

The tenure of members of the Knesset is terminated by a new election, by appointment or election to one of the offices which disqualify persons from being candidates for the Knesset, by resignation, or by death. With regard to the first point, all 120 members of the Knesset lose their tenure as a unit with each national election. If a member is appointed or elected to a post which debars the holder from being a candidate for the Knesset, his membership in the Knesset automatically ceases on the day of his appointment or election to that position.¹⁰

A member of the Knesset may resign by personally presenting a signed letter of resignation to the Speaker; or, if he is unable to make a personal presentation, he may transmit his letter to the Speaker in the manner prescribed by the Knesset in its rules. The resignation takes effect forty-eight hours after the letter reaches the Speaker, unless the member withdraws it before that time. If the seat of a member of the Knesset becomes vacant, whether by reason of death or resignation, it is filled by the candidate whose name, in the list of candidates which included the deceased or resigned member, appeared immediately after the last of the elected candidates.¹¹

Convening the Knesset

The procedure for convening and opening the Knesset is fixed by law. A new Knesset convenes for its first meeting on Monday at 4 P.M. in the second week following official publication of the election results. If that day is a holiday or the eve of a holiday, the convening occurs on the first workday after the holiday. When a new Knesset convenes, it is formally opened by the President of Israel. If the President is absent, the oldest member of the Knesset present conducts the inauguration. When the President opens the Knesset he delivers a brief talk on the state of domestic and foreign affairs, and then hands over the chairmanship of the meeting to the oldest member present who holds the position until the Knesset elects its Speaker.¹²

The temporary chairman's role is to administer the declaration of allegiance to each member of the Knesset, after he has pledged himself, and then to conduct the election of the Speaker. The declaration that the temporary chairman makes is as follows: "I pledge myself to bear allegiance to the State of Israel and faithfully to discharge my mandate in the Knesset." He then reads the text once more; and,

¹⁰ Section 42, *ibid.*, 89.

¹¹ Sections 40-41 and 43, *ibid.*, 89.

¹² Sections 12-13, *ibid.*, 86.

as the name of each member is called the latter rises and declares: "I pledge myself." A member of the Knesset who has not attended the opening meeting, or one who has become a member of the Knesset afterwards, pledges himself before the Speaker or a Deputy Speaker at the first meeting he attends. The failure of a member to make this declaration of allegiance deprives him of the rights of membership in the Knesset until he does so.¹³

In keeping with the policy proclaiming and insisting on Jerusalem as the national capital, the Knesset's place of sitting is fixed by law as that City. Meetings must be held in Jerusalem, except in special circumstances when the Speaker, in consultation with the Deputy Speakers, may have the Knesset meet elsewhere. All meetings of the Knesset are public, unless it has been decided, under conditions and in manner prescribed by the rules of the body, to sit in closed session. It is curiously interesting that in Israel, where church and state are more closely allied than in most Western nations, unlike the practice in the latter legislatures, sessions and meetings of the Knesset are opened without prayers.¹⁴

Ordinary and Extraordinary Sessions

The Knesset normally holds two sessions a year, the combined duration of which "shall not be less than eight months." One session opens within four weeks after the Feast of Tabernacles, which is a Jewish holiday occurring in autumn; and the other session meets within four weeks after Independence Day — May 14. If the Knesset has not been convened within the specified four weeks, it must convene on Monday of the fifth week at 4 P.M. Meetings are held on Mondays and Tuesdays from 4 P.M. to 7 P.M. and 8 P.M. to 10 P.M. and on Wednesdays from 11 A.M. to 2 P.M. On the same days from 8 A.M. until the Knesset meets, the committees of the Knesset sit and conduct their business. In August and September the Knesset recesses, and there is a month's recess at Passover and a week each at Chanukkah and Purim, two Jewish holidays occurring in the winter.

In addition to the two ordinary sessions, the Knesset may be convened for extraordinary sessions by either the Knesset itself or "upon the demand of the Government." For the Knesset to convene in extraordinary session, at least thirty of its members must make such a request. In this event, the Speaker is required to convene the Knesset.¹⁵

¹³ Sections 14–16, *ibid.*, 86.

¹⁴ Sections 2 and 26–27, *ibid.*, 85, 87.

¹⁵ Sections 31–33, *ibid.*, 88.

Seating Arrangement

As in the majority of parliaments, members of the Knesset sit in a semi-circle; but, unlike many of the others, the political party representatives sit from left to right according to size, not ideology. The largest party sits on the left, and the smallest on the right. This was not always so. At the convening of the First Knesset the seating arrangement was based on ideology. Herut, the rightist party, was seated at the far right of the hall, and the Communists were on the extreme left. Shortly afterwards, on the objection of these two parties, a left-to-right seating plan was adopted based on the strength of party representation.

Differing from the British Cabinet, which sits on the front bench of the majority party, the Israeli Government sits at a table in the center of the assembly hall. At the dais sit the Speaker and Deputy Speakers, Clerk and Deputy Clerks, and the interpreters. Following the tribunal pattern of the French and Belgian Parliaments, members speak in turn from a rostrum which is at the left of the dais. Earphones have been installed for the Arab members to listen to running translations in Arabic;¹⁶ and a section of the hall is allotted to newspaper correspondents, radio broadcasting representatives, stenographers, and members of the public admitted by tickets issued by the Clerk.

The Speaker of the Knesset

The permanent Chairman of the Knesset is popularly known as the Speaker. He is elected by majority vote of the Knesset from among its members. As many Vice-Chairmen, or Deputy Speakers, as desired may be elected by the Knesset likewise from among its members.¹⁷ As soon as he is elected, the Speaker takes the chair from the temporary chairman and presides over sessions of the Knesset. During discussions and debate, the Speaker does not participate, but he rules on points of procedure and his rulings are binding. An Interpretation Committee was formed in 1949, to which, after a meeting, members may appeal an interpretation given by the Speaker. While the appeal cannot overrule the prior decision of the Speaker, it can establish precedent. This Committee consists of the Speaker, the Deputy Speakers, and five members of the Knesset selected by the House Committee.

Given a number of powers which link him with the President of

¹⁶ M. Piamenta, "Arabic in the Knesset," *Middle Eastern Affairs*, VI (February, 1955), 45-47. Mr. Piamenta is the chief interpreter for the Knesset.

¹⁷ Section 20, Basic Law (The Knesset), *ibid.*, 87.

Israel, the Speaker sets the date of the election of the President by the Knesset, notifies all members of the Knesset in writing at least twenty days in advance, then informs them of the name of each proposed candidate and the names of the Knesset members sponsoring him, and finally announces formally the proposed candidates at a meeting of the Knesset.¹⁸ In the absence of the President from the country, or when the President has been declared by the Knesset's House Committee to be temporarily unable to perform the functions of his office because of ill health, the Speaker serves as "Acting President." If the President is declared by the House Committee to be permanently incapacitated, the Speaker is designated "Interim President" and serves in the capacity of the head of state until assumption of office by a new President. Similarly, if the President resigns, he submits his letter of resignation to the Speaker, who serves as "Interim President" until a new President takes office. In the case of a President under ouster from office by the Knesset, the date of the proceedings is fixed by the Speaker; and, if the President is deposed, the Speaker is designated "Interim President" until a new President is elected and assumes office.¹⁹

In the absence of the Speaker, one of the Deputy Speakers acts as Chairman. When the First Knesset convened, only one Deputy Speaker was elected. The number was soon increased to two, later four, and is today eight. This multiplicity offers each major party in parliament, including the opposition, a Deputy Speakership and produces a degree of practical cooperation among Knesset leaders. Together, the Speaker and Deputy Speakers form what is known as the Knesset Presidium. As chief administrative officer of the Knesset, the Speaker presides over the Presidium and directs, in addition, the Clerk, who is in charge of two Deputy Clerks and a technical staff which assists him, and the Knesset Officer, who is the Sergeant-at-Arms in command of the parliamentary ushers and the Knesset Guard.

The first speaker was Joseph Sprinzak of the middle-of-the-road, democratic socialist Mapai Party, who had served as Speaker of the Provisional State Council in 1948. He was elected Speaker by the First Knesset on February 14, 1949, was re-elected by the Second and Third Knessets, and died in office on January 28, 1959. His successor, Dr. Nahum Nir of the left-wing Achdut Ha'Avodah Party, was elected by the Third Knesset the following March 2 to serve during the remainder of that Knesset's term of office. One would have expected that a member of Mapai, the leading party,

¹⁸ Section 4, State President (Tenure) Law, 5712-1951, enacted on December 3, 1951, *Laws of the State of Israel*, VI (5712-1951/52), 4.

¹⁹ Sections 11-15, *ibid.*, 5-6.

would have won each election for Speaker. On this occasion, however, an unusual alliance of right-wing, left-wing and religious parties united behind Dr. Nir to defeat the Mapai candidate, Berl Locker, by a vote of 53 to 41. The incident demonstrated that, in Israel's political life, so long as no single party wins a majority of the seats in the Knesset, the dominant party cannot dictate the naming of the Speaker. The third and current Speaker is Kadish Luz of Mapai, former Minister of Agriculture, elected by the Fourth Knesset on November 30, 1959, unanimously, except for the Communist members, who abstained.

Procedures and Rules

Only the Knesset can prescribe the procedures for conducting its business. These may be laid down either by law or by rule. Insofar, however, as neither law nor rule delineates the procedure, the Knesset must follow "accepted practice and routine."²⁰

The House Committee, which is described later in this chapter, is the parliamentary committee responsible for developing the rules of procedure governing the Knesset and also its permanent committees. A special subcommittee is permanently engaged in codifying the standing orders of the Knesset. Until this is accomplished, parliamentary procedure permits the Speaker, when faced with a new situation, to make an on-the-spot ruling. If it is not challenged, the Speaker's ruling becomes precedent for the future. If objection is raised, the issue is submitted to the Interpretation Committee which examines the point of procedure in question and renders a decision that may become the precedent. This is known as the "Act of Precedents."

Preparation of the Agenda

The agenda items for each week's meeting of the Knesset are proposed by the Government on the preceding Friday at a joint conference of the Speaker and two Deputy Speakers with the Secretary to the Government, and are publicized by press and radio following official releases. The proposed agenda are presented to the Knesset for approval. If there are objections by Knesset members to all or part of the agenda, these are heard after the Cabinet ministers concerned give their views. The Knesset then decides whether to accept or reject the suggestions, or whether to refer them to the appropriate Knesset committees for consideration. Unlike the British practice, Israel's Government does not consult with the opposition in fixing the agenda.

While the Government is the primary developer of the agenda,

²⁰ Section 19, Basic Law (The Knesset), *ibid.*, 87.

Knesset procedure provides the opportunity also for individual members of Parliament to contribute to the agenda. On Wednesday of every second week, an entire sitting is given over to private members who may submit motions to add items to the agenda. Such motions are in the form of proposals to discuss current problems or of requests to introduce a private member's bill. In either event, the member is given five minutes time to state his case, but confines himself to the reasons for his proposed addition to the agenda and is not expected to go into the substance of the item itself.

When the private member finishes his explanation, generally a member of the Government gives the latter's views on the motion. Two more members are then given the floor to discuss the motion or to submit alternative proposals which would either reject the motion or refer the matter to one of the Knesset's committees for consideration. If the proposal to reject the motion is accepted, this ends the matter. If the proposal to send the item to committee is adopted, the matter goes to the committee, which discusses the motion and decides what is to be done with the item proposed. When a private member's motion is accepted, the item automatically goes on the agenda of the Knesset. This setting aside of a private member's sitting on the agenda is popular not only with the parties which are outside of the Government or in the opposition. It is a device which even the Government finds occasionally convenient to allow the introduction of bills by non-Government parties that it might not itself want to propose.

Allotment of Debating Time and Voting Procedure

A quorum is not required for the Knesset to hold debates and make decisions. Regardless of the number of members present, the Knesset holds its meetings when required by the law or rules.²¹ Debates can take place following Government statement, on Governmental motion, or on a motion of confidence or of non-confidence. A "Motion for the Agenda," inherited from the debate and voting procedures of the Zionist Congresses, is a device for obtaining the floor to discuss a public matter, air a private grievance, or introduce a private bill. Such "Motions for the Agenda" are sometimes disposed of at once and are at times referred to a committee for examination and report.

The total allotted time for debate may vary from bill to bill as determined by the House Committee. In turn, this total is divided by 120 to determine each member's share. However, each political party in the Knesset receives a share proportionate to the number of its

²¹ Section 24, *ibid.*, 87.

representatives; and each party designates which of its delegates will participate in the debate and how much time each will take within the amount allotted to the party. A debater who exceeds his time cuts into the time allocated to his party. Parties with only one representative are granted five minutes in addition to their allocated time. This procedure was set by the House Committee under its authority to establish the rules and regulations for the Knesset.

A minister in the Government who is not a member of the Knesset possesses the same status as a minister who is, except that he does not have the right to vote in parliamentary proceedings. He sits at the Cabinet's table in the chamber, and participates in the discussions and debates. Generally, voting is *viva voce*, and decisions are taken by a simple majority of those present and voting. An abstention is not considered a vote. In several instances, votes other than a simple majority of those present and voting are required by law.²² To elect the President of Israel a majority vote of 61 or more is necessary on the first or second ballot, and a simple majority of those present and voting on the third and later ballots. Similarly, the determination of a President's temporary or permanent incapacity is made by three-fourths majority. A like majority vote of all members of the Knesset is required to depose a President.²³

The largest of all majority votes necessary for the Knesset to act is that in connection with amending or suspending the Basic Law (The Knesset), 5718-1958, by means of emergency regulations. In order to accomplish this, a majority of eighty or more members of the Knesset must approve. Another unusual number of votes is that which calls for an extraordinary session. Thirty or more members must demand such a session.²⁴

In all these voting arrangements, no pairing of a vote by an absent member with one present is permitted. In all instances where the voting procedure is not determined by law, it is fixed by the House Committee by rule.²⁵

The Knesset's Committees

No limitation was placed on the number of permanent and temporary committees the Knesset was authorized to establish. The responsibilities, powers, and procedures of these committees, insofar as they are not prescribed by law, are determined by rule.²⁶ Their main func-

²² Sections 23 and 25, *ibid.*, 87.

²³ Sections 5 and 12-14, State President (Tenure) Law, *ibid.*, 5-6.

²⁴ Sections 33 and 44-45, Basic Law (The Knesset), *ibid.*, 88-89.

²⁵ Section 25, *ibid.*, 87.

²⁶ Section 21, *ibid.*, 87.

tions are to examine proposed legislation, recommend amendments to the Knesset, and inquire into the organization and operations of the Government.

Permanent Committees

Elected from among its members, nine permanent committees were formed by the Knesset. They are: the House; Finance; Constitution, Law and Justice Committee; Economic; Home Affairs; Education and Culture; Public Services; Labor; and Foreign Affairs and Security.

Standing orders and regulations governing procedure are drawn by the House Committee, also known as the Knesset Committee. This Committee also considers complaints against and passes on the conduct of members, and refers matters to the appropriate committees for discussion and consideration, including questions submitted by the public. It develops rules of procedure for and coordinates the work of the permanent committees, defines salary rights of members, and considers all matters not within the scope of any specified committee. In addition, the House Committee conducts the initial proceedings for deposing the President of Israel, and determines whether a President is temporarily or permanently incapacitated.²⁷

Taxation, loans, budgets, customs and excise duties, currency, state income and expenditure, state property, and property subject to state custodian control are dealt with by the Finance Committee. The Constitution, Law and Justice Committee is responsible for handling matters pertaining to the laws of the state, administration of justice, and designation of fundamental laws which eventually will be consolidated to form a constitution. Commerce, industry, supply, transportation, agriculture, cooperative societies, and communications are the concern of the Economic Committee.

The Home Affairs Committee deals with police, local government, immigration, citizenship, and press and information. Education, culture, art, science, radio, television, movies, theatre and physical training are the responsibilities of the Education and Culture Committee. The Public Services Committee handles matters dealing with social services, health, and war victims. Labor, public works, housing, rehabilitation of soldiers and their families, and social security are dealt with by the Labor Committee. Foreign affairs and defense are handled by the Foreign Affairs and Security Committee.

Each of these permanent committees has fifteen members, except the House Committee and the Constitution, Law and Justice Committee, which have twenty-three. In addition, the former has two advisory members, and the latter, one. Committee assignments are

²⁷ Sections 12 and 14, State President (Tenure) Law, *Laws of the State of Israel*, VI, *ibid.*, 5-6.

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made by an ad hoc Organization Committee, first established by the Third Knesset and consisting of twenty-eight members, elected by Parliament. The chairmen of the committees are proposed by the Organization Committee, and the slate is presented to the Knesset for approval. Opposition parties are included in the distribution of committee chairmanships.

Accordingly, fifty-one committee assignments are divided among 119 members. The Speaker does not serve on any committee. Representation of political parties in these committees is in proportion to the number of their seats in the Knesset. This includes the opposition. Parties with but one representative receive one seat on only one committee. In order to exclude Communist Party delegates in the Knesset from membership in the Foreign Affairs and Security Committee and in the Finance Committee, because of security reasons, the Knesset has followed the principle of limiting such representation to parties with eight or more seats in Parliament.

Meetings are held on the specified days and are closed to the public, but reports are released to the press. Each committee may appoint subcommittees from among its own members. When issues affect more than one committee, joint committees are formed to study and solve matters coordinately. The committees may call Government officials and private experts before them to answer questions, give testimony, and furnish technical advice and assistance. These committees are authorized to discuss not only those matters referred to them by the Knesset, but also any matter which is within their assigned field of interest. In either case, the committees generally prepare reports and make recommendations; and the full Knesset determines the action to be taken. Committee votes are, in general, by simple majority of the members present and voting; and exceptions must be specifically provided for in the statutes enacted by the Knesset. For example, the State Guarantees Law, 5714-1954, authorizes the Minister of Finance to guarantee loans, on behalf of the State of Israel, if in his opinion this might promote the economy or otherwise be in the public interest. Such guarantees are limited to amounts not exceeding 250,000 pounds (\$138,000). To exceed this limitation, the Minister of Finance must obtain the approval of the Finance Committee, which may lift the limitation only by unanimous vote of its members present and voting.²⁸

*Temporary Committees and Commissions of Inquiry*²⁹

Temporary Committees may be elected by the Knesset from among

²⁸ Section 2, State Guarantees Law, 5714-1954, passed on August 18, 1954, *Laws of the State of Israel*, VII (5714-1953/54), 143.

²⁹ Sections 21-22, Basic Law (The Knesset), *ibid.*, 87.

its members for specific purposes. Likewise, the Knesset may appoint commissions of inquiry to investigate designated matters. These commissions may be individually formed from among members of the Knesset, or the Parliament may empower one of the permanent committees to conduct the specific inquiry. Every commission of inquiry is required to include also representatives of political parties sitting in the Knesset which are not members of the Government in accordance with their relative strength in Parliament. The powers and functions of these commissions are prescribed by the Knesset.

Enactment of Legislation

The primary function of the Knesset is to legislate for the country as a whole. Parliament is supreme in this area; it may pass a variety of laws and resolutions on political, economic, social, and religious matters without veto by the President or the Government and without restriction or nullification by the courts. Local legislative councils in the cities may not regulate matters which are the exclusive competence of the Knesset unless the latter confers by law on the municipal legislatures the power to do so.³⁰

Following the British pattern, the Government generally initiates legislation. It is actually, although not theoretically, difficult for individual members of the Government, except the Prime Minister and his party, to introduce legislation. Rarely have individual private projects been incorporated in Government bills. The vast majority of laws passed by the Knesset have been those adopted on Government initiative; the few others have been those adopted on the initiative of individual or groups of private members of the Knesset.

Proposed legislation must pass through the appropriate permanent committee before it can be presented to the full Knesset. The committees study both draft legislation and regulations; and they also, on request, give an opinion on any legislative matter submitted by the public to the Knesset or to the Government. As in Britain, a committee, in the course of its deliberations, may call the minister concerned or his representative and demand detailed supporting data and documents. If the committee so decides, it submits its conclusions to the Knesset.

In the usual case of Governmental initiative, as in Western European parliaments, the first step is taken by the interested Cabinet minister who prepares a memorandum which includes also an opinion of the Attorney General and the Director of the Budget Department of the Ministry of Finance. This memorandum outlining the policy

³⁰ *Mendelsohn v. Tel Aviv Municipality*, 10 Piskei Din 734, 751 (1956).

underlying, and the necessity of, the proposed bill is presented to the Cabinet. After the Cabinet by majority vote approves the bill, the drafting is performed by the minister concerned in consultation with the Legislation Department of the Ministry of Justice. The latter Department is headed by the Attorney General.

The draft of the bill is then sent for approval to the Cabinet's Constitution, Law and Justice Committee. On approval, the bill is submitted by the Prime Minister to the Speaker of the Knesset who has it printed and distributed for study by the legislators at least forty-eight hours before scheduled debate on the bill opens. In the Knesset the bill goes through three readings. The first reading is begun with a speech by the minister or ministers concerned on the reasons for and the objectives and content of the bill. Open debate follows, in which every member may participate; and questions are asked of and answered by the ministers. After the first reading, the Knesset, by majority vote of those present and voting, decides whether to submit the draft bill to the relevant permanent committee for review, return it to the Government for amendment, or disapprove it.

If the bill is disapproved on the first reading, there are no further readings. The bill is defeated; and to be re-introduced, it must undergo the same initiating procedure as a new bill. If the bill is returned to the Government for amendment, it may be returned directly for debate and vote. If the bill is approved, it is sent to the appropriate committee where it undergoes line-by-line examination and discussion in which the ministers concerned or their representatives, as well as a legal advisor from the Ministry of Justice and, at times, the public may be heard. The committee subjects each clause to majority vote; and members who disagree may offer minority opinions. Committee decisions, together with minority views, are presented to the Speaker.

When reported out by the committee, the bill receives a second reading. Copies of the draft bill as approved by the committee and minority opinions are submitted to all members of the Knesset at least twenty-four hours before the second reading opens. Here, the chairman or a designated member of the committee concerned presents the majority opinion; and dissenting members of the committee present minority views. The chairman of the committee may be a member of an opposition party voting against the bill. Although the committee may have rejected a proposed amendment, its sponsor may re-propose it during the second reading. A limited number of the bill's opponents are given the floor; and a vote is then taken clause by clause and amendment by amendment.

Should the draft bill be defeated, it must undergo the regular procedure for a new bill if it is to be re-introduced. If it is approved, a

third reading immediately follows. At this third and final reading, a vote is taken on the bill as a whole as adopted on the second reading. If a majority of the Knesset members present and voting approve the bill after the third reading, the bill must be signed by the Prime Minister, by the minister or ministers responsible for its implementation, and by the President of Israel. All of these officials may not refuse to sign and may not exercise any type of veto. The only laws which the President may not sign are those concerning his own powers.³¹

After these signatures are inscribed, the Minister of Justice impresses the state seal on the official copy; and the act is published in *Reshumot (Official Gazette)* which is published in Hebrew and Arabic editions. Every law must be printed in this official record within ten days of its enactment. A law becomes effective on the date of such publication, unless it has a specified retroactive or future date of effect.³² The original signed texts of all laws are kept in the Government archives available for inspection as to accuracy and authenticity.

When a bill is not acted on during the term of one Knesset, it does not carry over automatically to the succeeding one, but must be re-introduced and go through the regular legislative procedure as a new bill. Any enactment due to expire during the last two months of the term of office of an outgoing Knesset, or within four months after the Knesset has decided to dissolve, or in the first three months of tenure of an incoming Knesset, continues in force until the expiration of the three-month period.³³

Resolutions of the Knesset

The Knesset may pass resolutions, by majority of those present and voting, on any issue or matter it wishes. Resolutions may be declaratory, advisory, or legally binding. This power has been granted in part by law, and has been in part asserted as acceptable practice by other national legislative bodies.

While on the one hand, for example, the authority to withdraw immunities or rights of Knesset members by resolution was expressly assigned to the Parliament by law, the power to ratify treaties by resolution, on the other hand, was asserted by the Knesset. Nowhere did the laws of Israel require Knesset confirmation of treaties. The precedent was set, however, when the United Nations Convention on the

³¹ Section 2. (c), Transition Law, 5709-1949, *Laws of the State of Israel*, III (5709-1949), 3.

³² Section 10, Law and Administration Ordinance, 5708-1948, *Laws of the State of Israel*, I, *ibid.*, 9, and Section 2. (d), Transition Law, 5709-1949, *ibid.*, 3.

³³ Section 38, Basic Law (The Knesset), *ibid.*, 88.

Prevention and Punishment of the Crime of Genocide was ratified by a resolution of the Knesset in 1950.³⁴

Principal and Subsidiary Legislation

The Knesset's authority to legislate for the nation is primary and unlimited. This is a matter of both law and general parliamentary practice. Israeli courts have acknowledged the Knesset to be the supreme source of statute, or principal, law in the land. This does not mean that the Knesset is the sole source of legislation. In our modern era, with the state assigned many complex and technical tasks, the administrative elements of government have acquired authority to issue rules, regulations, and orders, or subsidiary legislation having the effect of law. These administrative elements include the Government as a whole, individual ministries or groups of ministries, municipal councils and other local authorities, independent regulatory commissions, and licensing and inspection agencies. The power of these administrative elements is restricted within the limits set by the Knesset. If subsidiary legislation exceeds the scope of authority set by parliamentary legislation, the courts will declare the former invalid.

A law passed by the Knesset assigning a specific minister the responsibility of enforcement will contain a section authorizing the minister to issue implementing regulations. When the subject matter of a law concerns more than one minister, the power of implementation is conferred jointly on the ministers concerned. If the subject matter of a law does not concern any minister in particular, the authority to promulgate implementing regulations is conferred on the Government as a whole.

The Knesset possesses the power also to confer broad or narrow grants of implementing authority. At times it has been suspicious of the administrators and has restrained them by laying down particulars to the smallest details. This has been especially true in the case of laws governing the elections to the Knesset and municipal councils. On the other hand, the Knesset has delegated to certain ministers the broadest of administrative power for improving the economy. There is another type of subsidiary legislation which the administrative elements of national and local government in Israel may create. This is complementary regulation—the issuance of administrative regulations with regard to matters which the law itself passed by the Knesset has not regulated but which complements the scope of the principal law.

In certain matters of insurance, guarantees of loans by the state,

³⁴ *Divrei Ha-Knesset*, First Knesset, Second Session, III (1949–1950), 313.

rents, customs and excise duties, tariffs, and taxes, the Knesset has written into laws the required cooperation of the Government and individual ministers with a particular parliamentary committee or group of committees. The reason for this is that in these important areas of the economic life of the country involving the basic rights and interests of the individual, the Knesset wants to maintain control over such types of subsidiary legislation. Only in the legal field has the Knesset practically surrendered its control over subsidiary legislation. In accordance with British tradition, the Knesset has granted the Minister of Justice the power to issue regulations concerning civil procedure in the courts. The power conferred is broad and nearly unrestricted.

Emergency Legislation

The state of emergency declared by the Provisional State Council on May 19, 1948, was continued by each of the Knessets. As a result, Parliament has not only extended many of the emergency laws enacted by the Provisional State Council, but it has issued new ones. Exercising its own authority, the Government has promulgated emergency regulations, too; but since these are valid only for three months, to be extended they require the approval of the Knesset by majority vote of those present and voting. The Knesset has given approval to some of these regulations and has extended others continually on the grounds that they have been essential to national security.

Israel's emergency legislation covers a longer period than statehood. It includes first those emergency laws passed by the British Mandatory authorities and which were continued by the new republic after sovereignty. Another group of emergency laws is that composed of the Jewish community quasi-government's enactments, especially those dealing with security and the economy during the last several months of the Mandate period. These, too, were continued by the Knesset. A third group was passed by the Knesset after the establishment of the State of Israel. The majority of all these emergency laws have become in time part of ordinary legislation. Some ceased to have effect because the Knesset either was not asked to extend their validity or rejected their extension. The subject matter of emergency legislation has included, in addition to that described in Chapter 2, the requisition of land, establishment of security zones, custody of absentees' property, and economic controls.

Publication of Proceedings

All debates and discussion in the Knesset are recorded stenographically, and mimeographed copies are distributed to the press and the

speakers concerned. Complete and corrected reports, including the agenda, motions, votes, and dissenting opinions, are published in the weekly *Divrei Ha-Knesset* (*Proceedings of the Knesset*) in Hebrew, Arabic, English, and French editions. The Arab members of the Knesset are provided with simultaneous translations in Arabic of all discussions; and after the Arab members speak, a Hebrew translation is read to the Jewish members.

Speeches delivered at open meetings of the Knesset are not subject to censorship. This rule was adopted on May 30, 1949, after recommendation by a joint meeting of the House Committee and the Foreign Affairs and Security Committee, and was later written into the Basic Law (The Knesset) of 1958. Accordingly, the publication of anything stated in open session of the Knesset may not be deleted, prohibited, or controlled by any outside source; and whatever is published in the *Proceedings of the Knesset* may be reprinted without restriction in any publication. However, during a state of emergency, which Israel is now in, the Speaker may prevent the publication of certain matters in the interest of national security. The publication of the proceedings of closed meetings of the Knesset, which include those of the permanent committees, is generally prohibited. Anyone who violates these prohibitions is liable to severe penalties.³⁵

The Opposition

While an opposition exists in Israeli political life, it does not provide, in effect, an alternative government, as in Great Britain. One of the main reasons for this is that the Government has always been a coalition of three or more parties; and the opposition, likewise, has consisted of at least three parties. Moreover, the opposition is neither united nor cohesive, and appears to be unable to replace the Government even if it should succeed in toppling it. Consequently, Governments have been able to function effectively with the smallest of Knesset majorities.

Unlike British practice, there is no "Leader of the Opposition" who is paid a special salary out of public funds to function as an officially acknowledged and desirable opposition. The opposition in the Knesset serves, nevertheless, as a restraining influence on the Government. It frequently raises questions embarrassing to the Government concerning policies and programs, and subjects the Government to votes on motions of non-confidence. Also, members of the opposition parties in the Knesset frequently submit proposals for inclusion in the agenda which are not clearly or precisely defined, in order to initiate general debate and draw the public's attention to certain matters which might embarrass the Government.

³⁵ Sections 28-30, Basic Law (The Knesset), *ibid.*, 87-88.

Party discipline is strict in the Knesset. The parties which form the Government have their own coalition whips, and instances of free votes are rare. On the other hand, the discipline of the opposition as a group has been weak. The embarrassment and harassment created by the opposition have never been sufficient to cause the downfall of the Government and to bring the opposition into power.

Imposition of Penalties and Sanctions

General matters of Knesset privilege have not yet been determined. For example, no law has been passed empowering the Knesset to take certain action against private citizens or outside public officials for contempt in connection with verbal or written remarks disparaging the Knesset, or to subpoena persons for refusing to appear at a Knesset inquiry or to present requested records and documents. The Knesset does have a variety of powers, on the other hand, to impose penalties and sanctions on its own members in order to command their orderly conduct on the floor of Parliament, and also on all persons within the Knesset buildings and grounds for preventing public disorder in the parliamentary area and for protecting the lives of the national executive and legislative leaders.

Immunities, Rights and Prohibitions of Knesset Members

To insure the degree of freedom and independence necessary for carrying out their responsibilities as national legislators, members of the Knesset were granted certain immunities and rights by law.³⁶ For the same purpose, the law imposed a number of prohibitions on members and former members of the Knesset.

Immunities

In the pursuit of their official duties and mandates, members of the Knesset have immunity from any legal proceedings with regard to their votes and oral or written expressions of opinion in or outside Parliament. In this connection, a member of the Knesset is not bound to state in evidence any fact learned by him in carrying out his duties. This immunity, however, prevails only as long as the person is a member of the Knesset.

Members are immune from searches of their homes, person, or belongings, except for customs examination when returning from abroad. Searching, opening, or confiscating their official papers, documents, and mail, however, are forbidden. Because of Is-

³⁶ Knesset Members (Immunity, Rights, and Duties) Law, 5711-1951, passed on June 25, 1951, *Laws of the State of Israel*, V (5711-1950/51), 149-52.

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rael's tight currency policies, it is permissible to open a member's papers to examine his currency notes, drafts, checks, or securities, provided this is done in his presence. A member may not be arrested, unless apprehended while committing a crime of violence, disturbing the peace, or engaging in treason. In such event, he may not be kept under arrest for more than ten days, unless his immunity has been withdrawn in respect of the charged crime before the end of this period. For an offense alleged to have been committed by him while in office or before he took his seat, a member may not be prosecuted, unless and until his immunity has been withdrawn in connection with the charge in question. In the case of one who has a charge pending against him on the day he becomes a member, the legal proceedings in connection with it are discontinued on that day and may not be resumed so long as his immunity respecting the alleged offense has not been withdrawn. Courts of law, though, may require a member of the Knesset to give testimony and, in this event, will fix the date for the hearing with the consent of the Speaker.

Members are exempt from compulsory service in the regular military forces but not from serving in the reserve forces. Arrangements for the time of active service in the reserve forces must be set by the House Committee in consultation with the Minister of Defense or his representative.

Rights

Members of the Knesset have the right to travel abroad in peacetime on service passports without the restrictions applying to other citizens of Israel. Within the country they are entitled to free travel on all public railway and bus systems. Likewise, they are entitled to telephones in their homes installed free and with priority over other persons; and, in addition, they are permitted a certain number of free telephone calls as determined by the House Committee. All interurban telephone calls by a member of the Knesset from his home, the Knesset building, or a post office must be given priority if he requests it. Letters sent via ordinary mail by members from the Parliament building to any place in Israel are postage-free. Members are entitled also to receive all governmental publications free of charge.

Prohibitions

The law forbids members of the Knesset to use their official title in any activities connected with their business or profession. Former members may not stress in writing, in connection with their business or profession, the fact that they had been members of Parliament. The penalty for violating this prohibition is severe — imprisonment up to

two years, a fine not exceeding 3,000 pounds (\$1,660), or both. Members who are at the same time ministers in the Government may not hold any position of leadership in Parliament. As a result of this rule, when the Deputy Minister of Religious Affairs, who was also a member of the Knesset, was elected chairman of the Constitution, Law and Justice Committee in January, 1953, he was forced to resign one of these two positions.

Members are prohibited by law from accepting any salary, in any form whatsoever, from any other source. Income from fees and other non-salary sources, however, is permitted. This restriction is further strengthened by requiring them to accept the salary, allowances, and grants to which they are entitled.³⁷

Withdrawal of Immunities and Rights

A member of the Knesset may not himself waive immunity. Withdrawal of immunity may be accomplished only by the Knesset itself and is limited to the specific charge involved. With the exception of the immunity of a member from legal proceedings with regard to his votes and oral or written expressions of opinion in or outside Parliament in carrying out his official duties, the Knesset may withdraw any of the immunities granted.

The procedure provided for in the Knesset Members (Immunity, Rights, and Duties) Law of 1951 requires that an application for the withdrawal of a specified member's immunity in respect of a particular charge be submitted to the Speaker who forwards it to the House Committee. A hearing is arranged for and conducted by the House Committee in which the complaint is discussed and the accused member is given an opportunity to state his case. The House Committee then, by majority vote, proposes withdrawal or dismissal of the application. If the latter course is taken, no further action can be taken by the Knesset. If the House Committee proposes withdrawal, all members of the Knesset must be given at least twenty-four hours prior notice before the Knesset may hold debate and vote on the House Committee's proposal. No requirement compels the Knesset to provide another hearing to the accused member. When the debate ends, the Knesset, by majority vote, either dismisses the proposal for withdrawal or resolves to withdraw immunity. Once immunity is withdrawn with respect to a particular charge, the accused member must be treated legally as any other person would be for the same alleged offense.³⁸

³⁷ Section 8, Knesset Members' Emoluments Law, 5709-1949, passed on May 31, 1949, *Laws of the State of Israel*, III (5709-1949), 29.

³⁸ Sections 4 and 13, Knesset Members (Immunity, Rights, and Duties) Law, *ibid.*, 150-52.

Withdrawal of any right of a member of the Knesset is effected in the same manner as withdrawal of an immunity. There is, however, a difference in the matter of making application to the House Committee. In the case of a right, any member of the Knesset or member of the Government may make application to the House Committee. In the case of an immunity involving a particular charge of crime or other offense, only the Attorney General may make application to the House Committee. For other immunities, any member of the Knesset or Government may make application to the House Committee. As chief administrative officer of the Knesset, the Speaker is responsible for implementing the laws and rules guaranteeing the immunities and rights to, and imposing the prohibitions on, members of Parliament.³⁹

Not many Knesset members have invoked immunity. In the few cases when it was involved and the Knesset voted against withdrawing it, sharp public objection ensued. The reason was that the incidents generally concerned foreign currency violations, traffic offenses and automobile accidents, rather than political acts. The Knesset has not yet amended the law to make this distinction clear and sharp.

Supervision over Administration

Like the Congress of the United States and the British Parliament, the Knesset has asserted the right to supervise and review the Government's policies, programs, and operations. The methods used by the Knesset are similar to the American and British ones, especially the latter. These include: votes of confidence or non-confidence in the organization, and policies and programs of the Government; question time; summoning of ministers and departmental officials to report on their agencies' activities; approval or disapproval of budgets and appropriating or withholding of appropriations; auditing of Governmental finances by a State Comptroller responsible to the Knesset; and inquiries by special commissions into administrative action or lack of action.

Votes of Confidence or Non-Confidence

Until a proposed cabinet is given a vote of confidence by the Knesset, it cannot be considered as the constituted Government; and, then, until each member of the Government is sworn in before the Knesset, he does not take office. Once confirmed, the Government is responsible to the Knesset, reports to it on its activities, and holds office as long

³⁹ Sections 13 and 16, *ibid.*, 151-52.

as it enjoys parliamentary confidence. If the Knesset votes non-confidence in the Government, the latter must resign.⁴⁰

The Knesset may examine specific policies or actions of the Government in open debate. Under such inquiries, initiated either on motion of the Knesset, or by the Government itself, the ministers concerned are called up to report on the action or policy in question. After the debate, the political party leaders present their views to the Speaker in the form of motions, each of which is put to a vote. Such votes express approval or disapproval of the Government's action. Not all votes of disapproval constitute votes of non-confidence; the motion may or may not be expressed in the latter form. If an opposition party or group of parties presents a motion expressing specific disapproval of a major policy or action of the Government, however, it may be considered a motion of non-confidence even if it is not so labelled.

During the early part of the First Knesset's initial session, the Government failed to maintain close liaison with the Knesset, and important decisions were made without consulting the floor leaders. The issue of re-admitting 100,000 Arab refugees, for example, almost split Mapai's parliamentary leadership because the Prime Minister and other ministers of the party had not consulted their floor leader and other party representatives in the Knesset. While a vote of confidence upheld the Prime Minister, the uproar forced the Cabinet into closer consultation with the Parliament, and indicated that the latter would not accept any minor role in the affairs of state.

Question Time

Another method by which the Knesset exercises supervision over the Government and administration is "Question Time." Resembling British parliamentary practice, each member of the Knesset has the right to submit questions to a minister concerning official activities. These questions are submitted in writing to the Speaker for transmittal to the minister concerned; and the latter is obliged to give his reply orally within two weeks during the first half hour set aside for this purpose at the beginning of every meeting. One supplementary question is permitted orally, and this must be to the original respondent only. Members may use this opportunity to censure ministers, demand that the public be informed about certain information withheld by the Government, or recommend corrective measures. This procedure, though, is still embryonic and limited.

In Great Britain, more reliance than in Israel is placed on questions in Parliament to protect the rights of the citizen. One of the reasons for this difference between the two countries is that there is a much

⁴⁰ Section 11. (a), Transition Law, 5709-1949, *ibid.*, 4.

closer link between the British member of Parliament and his constituents than between the Israeli member of the Knesset and his electorate. Since Israel's electoral system is one of a proportional list of electors, there are no separate constituencies; and consequently, a member of the Knesset in difficulty can plead only to his political party to intervene, not to a particular community of constituents.

Summoning of Ministers and Department Officials

Both the Knesset and the individual permanent committees frequently summon Government ministers and department officials to report on their administrative activities. As a result of this action, the Knesset has forced the Government on a number of occasions to withdraw a particular program and to rescind certain departmental regulations. It is by this method especially that the Knesset has asserted its powers to protect civil rights and liberties of the individual citizen against arbitrary, capricious, and illegal action by the Government and its administrative officials. Several times, the Parliament has censured the Government, once for proposing to suspend personal rights and safeguards on the pretext of an emergency, and also for having committed to prison, without permitting habeas corpus proceedings and legal counsel, a group of orthodox religious students accused of having plotted to bomb the Knesset. Since the motions for censure were not presented as votes of non-confidence and since the matter was not acknowledged to be of high policy in nature, the Government did not fall.

Adoption of Budgets

The Knesset exerts a strong degree of supervision over governmental administration through its consideration and adoption of the budgets. Fiscal policy provides for five budgets: Ordinary, Development, Foreign Currency, Special, and Supplemental. Each budget requires parliamentary approval, and covers the fiscal period April 1 through March 31. Every Government minister who heads a department must submit his proposed annual estimates of revenue and expenditure to the Minister of Finance, who makes whatever changes in them he deems necessary; and he presents a consolidated budget containing anticipated revenues and breakdowns of proposed expenditures to the Prime Minister for Government approval. The budget is then submitted to the Knesset. There, debate is begun with a report by the Minister of Finance on the financial conditions of the nation, fiscal problems and the Government's policies designed to solve them, and the composition of the budget.

Members of the Knesset may review, analyze, and criticize any

Government program or policy as reflected in the budget. The Finance Committee then presents budget bills, along with majority and minority views of its members. These bills go through the regular procedure for the passage of laws. When passed, the budget laws authorize expenditures within specified limits. Variations must be authorized by the Knesset's Finance Committee, and may, if necessary, be covered by supplementary appropriations. Little room is left for the administrative agencies of the Government to transfer amounts from one item of the budget to another. In instances in which the Minister of Finance is given certain powers to make regulations, it is generally required of him that he obtain first the approval of the Knesset's Finance Committee.

In the early years of statehood, the entire debate on the budgets was concentrated into several weeks before March 31, the last day of the fiscal year. Now, only the income aspect of the budget is passed on or before March 31, and the expenditure aspect is debated over a three-month period beginning with the new fiscal year. The budget law passed on or before March 31 gives the Government the authority to make, during these three months, a total of expenditure equal to one quarter of the amount which is proposed in its budget estimates submitted to the Knesset. This procedure is similar to western European parliamentary practice, and provides a background for the Knesset's financial programs.

The State Comptroller

On May 18, 1949, the Knesset passed the State Comptroller Law,⁴¹ setting up an audit authority under the direction of the Office of the State Comptroller similar to the General Accounting Office in the United States. The law subjected the entire financial economy of Israel to the control of this parliamentary agency. A detailed discussion of the Office of the State Comptroller is presented in a later chapter on "Governmental Administration."

Future of the Knesset

In the second decade of its existence, the Knesset is still in an experimental stage. Enacting annually between sixty and ninety laws,⁴² it is an effective body, membership in which carries great prestige throughout Israel. An average of one-tenth of the membership has

⁴¹ State Comptroller Law, 5709-1950, passed on May 18, 1949, *Laws of the State of Israel*, III (5709-1949), 23-26.

⁴² The Provisional State Council passed 98 ordinances. The First Knesset enacted 231 laws; the Second Knesset, 281; and the Third Knesset, 292.

been women, representing the major political parties except the ultra-orthodox religious parties which frown on the participation of women in politics. The early fears of endless, impractical debate without constructive results and of lack of interest or secondary concern by Knesset members, a majority of whom pursue professions and other occupations of their own outside, have proved to be groundless. In the period 1954–1956, after the excitement of statehood wore off, Knesset attendance declined. As foreign affairs intensified and the political parties sharpened their competition for power, attendance increased and is now at a level which has transformed the Knesset into the strong body it was intended to be.

Lobbying is neither prohibited nor regulated in Israel. Pressure groups exist not only in the private sector of the economy but also in the governmental, labor federation, and cooperative agricultural settlement areas. In addition, nearly two dozen political parties exist, offering the individual citizen the gamut of ideologies. Furthermore, if the public has a complaint or desires the remedy of an alleged injustice, or if it wants certain legislation to be passed, the Knesset, too, offers opportunities for redress or expression. Letters may be written to the House Committee, which has a special subcommittee with responsibility for deciding whether such matters should be brought before the Knesset for consideration, be referred to a Government department for investigation, or be sent to the appropriate Knesset committee for discussion.

Since members of the Knesset owe their seats to political parties rather than to constituent sections of the electorate, they do not report back to or feel any direct obligation or loyalty to groups of supporting voters in any city or village. Public pressures, instead, are exerted on and within the parties and are channeled into the Knesset through them as well.

Israel, like Great Britain, is ruled by cabinet government. Nevertheless, the Knesset is strong and assertive, and has served to check the Government and preserve democratic balances. Time and again, it has stepped in boldly to shape Government legislation and to voice its independent opinions on issues. As a representative body, it views each member as a fully empowered legislator possessing complete and equal rights to debate and vote on any and all issues. In this connection, an interesting issue arose in January, 1952, during the consideration of the question of direct negotiations with Germany when Israel Rokach, head of the General Zionist Party members in the Knesset, criticized the Arab members of the Parliament for voting on the issue. His contention that the question of German material war claims was a problem for the Jews only and was not the concern of the Arabs, however,

was not supported. The significance of this vote lay not in how the Arab members voted, but in the rejection of an undemocratic philosophy of legislation which would have denied a particular group of Knesset members the right to vote on certain measures before Parliament.

The Knesset has not developed anything equivalent to the British annual "Speech from the Throne" outlining the legislative program for the coming parliamentary session. Neither is there anything similar to the American President's "Annual Message to Congress on the State of the Union." The Knesset's debate on a new Government's program and parliamentary acceptance of fundamental principles hardly resembles either of these. While the Knesset has the authority to supervise administration, it has, as yet, done little to inquire into administrative organization and procedures with the objectives of improving management and increasing efficiency. Nothing like the Hoover Commissions of the United States has been created by Israel's Parliament. Question time, which could be an important tool of parliamentary supervision of the Government and administration has not yet progressed beyond the stage of partisan purposes of embarrassing the Government.

Inquiries conducted by the Knesset have generally been in the field of foreign affairs and security. Although its powers in this area are legally broad, it has not often examined into policies and programs of the Government before certain events occurred which have embarrassed the nation. Usually, inquiries have followed the Government's direction and furnishing of information.

Similarly, the Knesset has not done much to make its own procedures more efficient. Its somewhat excessive reliance on the Government to promote efficiency has matched its great dependence on the latter's leadership in fixing the parliamentary agenda, initiating legislation, and directing administration.

In the first several years of statehood, the Knesset enacted many hastily drawn bills, a considerable number of which were temporary in nature in that they limited the laws' effect to the term of the Knesset. As a result, a later Knesset had to enact new legislation on the same subjects to make the provisions permanent. In this connection, the early Knessets were guilty, further, of passing piecemeal legislation, necessitating later Parliaments to pass new laws which consolidated the various enactments and rescinded the prior provisions. The legislation currently passed generally indicates careful drafting and comprehensive coverage of the subject matter with a view toward some degree of permanency.



SUGGESTED READINGS

- Bernstein, Marver H. *The Politics of Israel: The First Decade of Statehood*. Princeton: Princeton University Press, 1957. Pp. 94–111.
- Rosenne, Shabtai. *The Constitutional and Legal System of Israel*. New York: Israel Office of Information, 1957. Pp. 28–33.
- Rosetti, Moshe. "Israel's Parliament," *Parliamentary Affairs*, VIII (Autumn, 1955), 445–52.
- Yadin, U. *Legislation in Israel*. Jerusalem: The Government Printer, 1955.
- The Knesset: Its Origin, Form and Procedure*. Jerusalem: The Government Printer, no date.

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Political Parties: Their Role and Development

Although the framework of Israel's developing political system is of European parliamentary design, the multiplicity of parties and the intensity of party consciousness and participation give it a peculiar existence and character differing sharply from the British pattern. In the election to the Constituent Assembly in 1949, twenty-one distinct parties submitted lists of candidates and actively campaigned among the electorate; to the Second Knesset in 1951 there were seventeen; to the Third Knesset in 1955, eighteen; and to the Fourth Knesset in 1959, twenty-six. There were twelve political parties represented in the Fourth Knesset. The splintering of political opinion and diversity of party adherence are caused primarily by the tendency of the immigrants, who constitute the huge majority of the voting population, to group themselves politically with fellow immigrants from their former countries. Even during the Mandate period there were a dozen similarly constituted parties competing for the relatively few elective positions in the Jewish community quasi-government.

Israelis take their politics seriously. The clash of doctrines between the political parties frequently comes into sharp play. Ideologically, the major conflicts among the parties involve the issues of labor versus management, collectivism versus private enterprise, separation of church and state versus theocracy, orientation toward the United States versus orientation toward the Soviet Union, nationalism versus internationalism, and expansion versus territorial status quo. These differences concern vital policies affecting the life and growth of Israel. For example, nearly four out of every five Jews in Israel are immigrants. When the question arose as to whether the country should continue to be open for all who sought entry to settle, the rightist

parties advocated restricting the number of immigrants to a minimum, but the labor parties on the left favored continual, open or near-open immigration. Then there was great debate on the problem of how quickly to absorb and settle the immigrants. While the rightist parties opposed disturbing private initiative and burdening the business community with high taxes for absorption purposes, the leftist labor parties maintained that the national aim of absorbing annually an average of 100,000 immigrants justified the limitation of large profits and the imposition of special income taxes for such purposes.

Another issue has been that of whether the worker in Israel receives too high a wage. Still another is the social character of the state — should Israel be a secular state which assures both believers and non-believers full opportunity for living their lives as they see fit, or should the state be conducted according to ancient religious laws which cannot be beneficially applied in modern times? Further, should relations be carried on with Germany which under Nazi rule became the destroyer of the Jews? Other subjects of conflict involve foreign policy and relations with the Arab minority in Israel. So intense are the differences in beliefs among the political parties that in 1953, for example, the collective settlement of Ein Harod located about seven miles from Nazareth was forced to split in two and divide its property according to the strength of the dissidents. Its 1,400 members — Mapai Party and Mapam Party adherents — took sides on all issues and found their conflicts were irreconcilable, especially the attitude each took toward the Soviet Union.¹ Yet, despite the bitterness among Israeli parties on political, economic, and social doctrines, the external pressure of hostile Arab states and the internal pressure of strained financial status have tempered party struggles and united the majority of them in the interest of national security and survival.

The majority of Israeli parties are not political parties in the Western European and American manner. They operate daily and weekly newspapers in various languages, and they engage in economic enterprises, operating banks, insurance companies, agricultural settlements, theaters, housing developments, health and welfare institutions, sports clubs, and youth groups for party members and their families. As a result, not only do parties win adherents by virtue of these services and facilities, but the members tend to support their parties as voters, clients, and fraternal brothers. At least one-fourth of all voters are estimated to be formal members of political parties.

While many of the parties have large memberships in the rural areas, a fully agrarian party does not exist. Despite the major parties' appeal to urban and rural populations and providing medical and so-

¹ *New York Times*, May 6, 1953, p. 13.

cial welfare and cultural benefits, no political party has ever won sixty-one or more seats in the Knesset. Consequently, all Governments have been coalitions, and no single party has had to take full responsibility for governing. This fact magnifies the strategic importance of party discipline in the Knesset and produces compromises often embarrassing to political leaders professing philosophical beliefs which have won them faithful followers.

Though generally classifiable as leftists, centrist, and rightist, Israel's political parties do not precisely represent such a division of political doctrine. Describing them in popular comparison to the political party alignments elsewhere gives a limited, mechanical, and, possibly, a distorted picture of Israel's politics. In categorizing the parties it is essential that they be related to their pre-state origin and historical development. The parties in general are not new groups formed at the time of the establishment of the state. Their origin may be traced back to the Palestinian Jewish community of the Mandate period, to the days of the World Zionist Organization and the Jewish Agency for Palestine, and to the era of political Zionism led by Theodor Herzl at the turn of this century.

With the exception of the Arab parties and the Progressives, Israel's parties originated in European countries. Some were founded nearly fifty years before the state was created. The international Zionist movement itself encouraged the formation of parties in support of Zionism. In fact, all the principal parties in Israel are Zionist parties; and only the Communist Party and the various small Arab parties are anti-Zionist. As such, whether left or right, religious or secular, or capitalist or socialist, the main parties all favor Jewish immigration but may differ as to quantity and quality; they also urge the maintenance of relationships with Jewish communities outside of Israel, and some type and degree of foreign support for immigration and settlement. Moreover, most of the parties receive financial aid from Jewish organizations abroad and have counterpart organizations among the Jews in other countries.

What is Zionism?

Zionist political parties combine an ideological point of view on major questions of national interest with the material objectives of their own members and supporters, rather than along lines of party systems of the democratic countries of the West. Zionism is not a unified system of social, political, and economic organization such as capitalism and socialism. It is a movement calling for the return of Jews to their ancient homeland. Zionists, therefore, can include in their ranks

capitalists and socialists, and the latter can include Marxists and non-Marxists; and, furthermore, Zionists may be religious, non-religious, or anti-religious.

The noun "Zionism" was first used in 1890 by Nathan Birnbaum (1864–1937) a Jewish Austrian nationalist. As a political doctrine, it was given its maturest shape and was brought to world awareness by Theodor Herzl (1860–1904), Viennese lawyer, journalist, and playwright. In a pamphlet, *The Jewish State*, published in 1896, Herzl expressed the view that the world's Jews were a cultural entity possessing a common background sufficient to constitute a nation and were waiting for the re-creation of their state. As long as the Jews lived in other lands, he maintained, they would experience anti-Semitic oppression. The Jewish question, he insisted, was not a religious or social matter, but a national one. Only a sovereign independent Jewish state could solve the problem; and this could be achieved solely through international political action. He suggested the creation of two agencies to work for this objective — one to undertake the preparatory organizational activities and political negotiation, and the other to carry on the financial and economic efforts. Herzl did not commit himself to any particular territory; but he proposed Palestine or Argentina, and left the decision to Jewish public opinion and the Zionist political agency.

Herzl had not discovered anything new and different. Most of his Zionist forerunners had advocated similar ideas and argued along the same lines. His scheme, however, was a politicalized one involving the mass transfer of the Jews by international political agreement. The Jewish settlement of Palestine, on any scale, he asserted, must be on the basis of an internationally guaranteed charter recognizing a colonization agency which would represent the Jewish people and grant certain political and economic rights and authority. The strength and efforts of the Zionist movement, he implored, should not be wasted on small-scale colonization, but should be concentrated first on establishing a united world Zionist organization, strong numerically and financially, to carry on diplomatic negotiations with the major powers in order to obtain the charter.

Herzl turned to practical organizational activity. As a first step, one which he felt was the only democratic way to obtain effective support and practical cooperation, he called for the convention of a congress of representatives of the Jewish people from all nations. No such gathering of Jews had ever been held before. On August 29–31, 1897, the First World Zionist Congress met at Basle, Switzerland. Attended by 204 delegates, it formulated the Zionist program of creating for the Jewish people a home in Palestine secured by public law and estab-

lished the World Zionist Organization. Herzl was elected president, a position he regarded as authorizing him to act as the ambassador of the Jewish nation and to negotiate with the ruling regimes of the world.

Parties of the Left

Until the large-scale colonization in Palestine which occurred after World War I, the dominant influence in Zionism was middle class. With the settlement of workers and farmers, labor Zionism grew to predominance. The great majority of these settlers were socialists from Eastern Europe who believed in the Zionist goal of a Jewish homeland in Palestine, but added to this the socialist goal of creating a classless society through cooperative or collective agricultural settlement and economic development.

The leftist Zionist parties trace their ideological heritage to Jewish life in Tsarist Russia and Poland; and since the early socialist Zionists advocated a solution which was to take place outside of their own countries and which was to be put into effect some indefinite time in the future, dozens of hair-splitting factions arose. Every shade of leftist thought was expressed and then represented in a political group. There were Marxists, Social Revolutionaries, Tolstoyists, anarchists, and syndicalists. When Palestine came under British administration as a Mandate territory with a commitment for the establishment of a Jewish national home, those factions which had failed to combine their idealistic doctrines with practical action in Palestine vanished from the political scene. These activities involved actual settlement in Palestine, expansion of industry and formation of trade unions, organization of cooperative or collective farm settlements, and establishment of branches of parties in Palestine with a view of assuming leadership eventually over the other branches elsewhere. In time, as a result of such activities in the Jewish community in Palestine, many of the splinter groups merged to form larger, more clearly defined parties.

Mapai Party

The largest party of the left and the most powerful party in Israel is Mapai (Israel Labor Party). A moderate non-Marxist socialist Zionist party, Mapai came into being in 1929 through the merger of Achdut Ha'Avodah (Unity of Labor) — formerly Poalei Zion (Workers of Zion), a Marxist organization which advocated the class struggle and revolutionary socialism — and Hapoel Hatzair (The Young Worker), a non-Marxist group which held that only through the educational process of productive labor and agriculture could the Jews be redeemed as a nation. These two diverse organizations were united

in joint belief and in understanding of practical Zionist pioneering. It was on this basis that Mapai evolved as a mass party broad enough to attract and include many shades of a socialist Zionist political opinion. While these various elements within Mapai generally saw eye to eye with regard to day-to-day practical matters, they differed on socialist theory. This difference led to the withdrawal in January, 1948, from Mapai of its left wing, Achdut Ha'Avodah, which joined with Hashomer Hatzair (The Young Watchman), an organization founded in Poland after World War I, to form a rival, more radical socialist Zionist party, Mapam.

Mapai won control of the Jewish Agency's Political Department in 1933, led the Jewish community in Palestine from that time on during the Mandate period, and managed Zionist activity internationally from 1939. It has continuously maintained control of the Histadrut, the General Labor Federation, which is Mapai's principal source of strength and Israel's largest trade-union federation. The membership of Histadrut numbers about 75 per cent of the country's wage-earners, and together with their dependents represents more than half of the entire population. Uniquely, because of its vast interests in industry, commerce, and agriculture, Histadrut, which was established in 1920, is also the nation's largest single private employer. It operates manufacturing, contracting, and marketing corporations, clinics and hospitals, rest homes, buses, and theaters. Until 1959 it also operated employment agencies for labor. Membership of other political parties — Mapam, Hapoel Ha-Mizrachi, and Poalei Agudat Israel — also belong to the Histadrut; but Mapai, as the majority party in the Histadrut, guides its policies and activities.

In its domestic policies, Mapai, whose membership consists primarily of urban and rural workers and the lower middle class, has advocated a gradual, democratic planning of the economy with step-by-step nationalization of natural resources, public services, and public utilities. Pragmatic, compromising, and flexible, however, the party feels that the Israeli economy should be based on harmonious, side-by-side development of constructive private enterprise and planned, useful collectivist endeavor. To encourage private investment domestically and from abroad, Mapai has proposed and carried out many concessions to private enterprise. It has favored wage ceilings, taxes on cooperative settlements, hiring of immigrants to work on collective farms, and sale of a sizable amount of abandoned Arab land to private persons. It has, further, rejected any "soak the rich" program, since this would discourage private investment at a time when the economy depends on private financial aid and investment from abroad. It has urged a system of graduated taxation, premiums for productivity, and an index

approach to cost of living allowances. Wage increases, Mapai insists, must depend on increased production; and increased output must be directed mainly to increasing exports or lowering prices of commodities for domestic consumption and only partly for raising wages.

While Mapai favors expansion of state services in health and education, it has refrained from calling for the production of goods by the state and has opposed the nationalization of imports if this should discourage private investment. It promotes aid both to the private economy and to cooperative and collective enterprises. Far from disparaging or demanding curbs on profits, Mapai encourages profits to promote economic expansion. The party has insisted on increased agricultural production for both export and domestic consumption purposes and on the development of the deserts and wastelands along the borders for both economic and military defense reasons. Many of these are measures which Mapai had opposed in principle before statehood.

In foreign policy, Mapai, as a socialist labor party, has attempted to steer clear of official identification or alliance with the capitalist West; and as a democratic, non-Marxist party, it has avoided linking Israel to the Communist East. Yet, Mapai's orientation, not too subtle because of the country's economic dependence on the United States and because of the party's espousal of democratic ideals, has been toward the democratic West. In keeping with its socialist background, Mapai is affiliated with the Socialist International and the Asian Socialist Conferences. While the party urges strong military and civil defense against attack by the Arab states, it is opposed in principle to preventive war. Nevertheless, it chose to invade the Sinai Peninsula in 1956 and reluctantly, against vehement opposition by many of the other parties, withdrew the Israeli troops to permit occupation by the United Nations' Emergency Force.

Mapai has formed all of Israel's Governments. It has provided the two Prime Ministers and all the key Cabinet ministers the country has thus far had by virtue of having won a plurality in all of the national elections. Each time, however, it did not win enough seats in the Knesset to form cabinets on its own, and was forced to invite and make concessions to religious and non-socialist parties to enter the coalition Governments. This has not been too difficult a position for Mapai. Its history has been one of socialist goals tempered by compromises to meet day-to-day realities and to maintain power. In this regard, Mapai had long, valuable pre-state leadership in the Jewish community quasi-governments and in the Histadrut. Consequently, for example, Mapai has opposed the adoption of a written constitution, since this would produce conflict with the re-

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ligious community in a period which demands national unity.

The first substantial drop in Mapai's voting strength came in the election of 1955. As a result, the highly centralized party machinery, which resembled the pre-state Jewish community quasi-government and Jewish Agency administration, was reorganized along the lines of the British Labor Party. To increase its popular membership and participation in party activity, it provided in 1956 for annual conventions, with delegates elected every two years by direct vote of party members organized by geographical districts in local branches. In turn, the convention elects the party's central committee which meets monthly and acts as Mapai's supreme authority between conventions. The central committee appoints the party's secretariat which directs the party headquarters. This decentralization of authority aimed at stimulating the local branches and at grooming much needed younger members for future leadership. It also anticipated the possibility of institution, by a future Knesset, of a constituency system of elections, a reform which Mapai has advocated in order to eliminate its dependence on small parties for attaining a majority and also in order to reduce the number of parties.

Weathering many political crises since statehood, Mapai has remained the country's most influential party. Membership has grown about fourfold since the state was established, but the majority of the men at the helm are the veteran leaders who came to Palestine mainly from Russia and Poland several decades ago. Now they are getting on in years, and the younger elements, especially those who fought in the war with the Arab states in 1948, are pressing for leadership. The latter attributed Mapai's setback in 1955 to the old leaders whose methods and approaches, they insisted, were outdated, lacking in appeal to the younger generation, and dictatorial. A survey made in 1956 by Israel's Institute of Public Opinion revealed that 390 of Mapai's leaders, more than half the leadership, were past middle age, nearly three-quarters of them had come from Eastern Europe, and the number of European immigrants in proportion to immigrants from North Africa and Asia had drastically declined.²

Mapam Party

In 1929, when Mapai was formed, Hashomer Hatzair rejected the idea of forming one large political party embracing all the various shades of socialist Zionist beliefs. Instead, it insisted on being a revolutionary Marxist and Zionist political party pure in ideology. While most, if not all, of the other socialist parties based their doctrine on the leadership of the industrial workers, Hashomer Hatzair held that

² *Israel Speaks*, Vol. X (September 7, 1956), 4.

the farmers in their kibbutzim — collective settlements — would lead the state to socialism.

For nineteen years Hashomer Hatzair remained an independent organization resembling a political party, based on collective farm settlements and with allied groups in industrial areas, favoring not a Jewish state but a bi-national, Arab-Jewish state. When Achdut Ha'Avodah (Unity of Labor) broke away from Mapai in January, 1948, because it felt the latter had become too moderate in its socialism and too compromising with capitalism, Hashomer Hatzair joined with it and also with Paolei Zion Smol (Left Workers of Zion) to form Mapam (United Workers' Party), a left-wing socialist Zionist, farmer-industrial worker party.

As a party of the left advocating revolutionary socialism, Mapam competes with Mapai for members and voters from among industrial labor and the intellectuals, but its membership consists primarily of Jewish collective and cooperative agricultural settlers. Its program calls for ultimate establishment of a classless socialist society, with Jewish-Arab unity, based on the political leadership of collective farmers. Combining Zionism and revolutionary socialism, Mapam stresses policies of class struggle, equal rights for Arabs, and a collective economy. The Arabs, however, have hardly responded to Mapam's appeals. The party opposes the expansion of private enterprise and of foreign capital investment in Israel, and maintains that if all industry and resources were nationalized and all land and agriculture either nationalized or collectivized, the economy could be placed on a sound basis.

Knowing that these ultimate goals are not currently acceptable to the electorate, Mapam urges that foreign capital, especially from the United States, be kept out of key resources and industries; that private capital be integrated by the state to fit an overall plan of economic development; and that all land reserves be utilized for expanded cooperative and collective settlements to accommodate an accelerated and unrestricted immigration of Jews. The financing of all such settlements should be by governmental subsidization with funds raised by increased direct taxation of property owners according to ability to pay, by compulsory loans, and by excess profit taxes. In line with its "tax the rich" programs, Mapam favors conscription of capital through compulsory investments; and following its "protection of the poor man" attitude, it advocates strict control and allocation of housing, reduction of indirect taxes which are passed on to the consuming public, and a ban on wage freezes.

Mapam frowns on Mapai's broad coalition Governments composed of capitalists, socialists, and religious parties, and favors, instead, nar-

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row coalitions solely of labor parties. It believes, too, that equality for Israel's minority and the abolition of military rule in the country's Arab communities would be the first step in achieving peace with the Arab states. In its opinion, the Gaza area seized by Israel in the Sinai invasion in 1956 was lost when Israel failed to proclaim that its residents would be accepted as full-fledged Israeli citizens.

In foreign policy, Mapam advocates a policy of non-alignment and non-identification in the struggle between the two world power blocs. It favors trade and friendly relations with both East and West. Yet, while urging a neutralist position, Mapam leans to the Soviet Union and against the United States, although during the Suez-Sinai campaign of 1956 it supported the invasion and opposed Soviet policy toward Israel. As for the Soviet Union's Middle Eastern policies other than relating to Israel, Mapam, while objecting to Soviet arms aid to Egypt, asserts the Communist bloc's right to defend itself against the capitalist West. Nevertheless, the party warns the Government to permit no bases of any foreign nation to be situated in Israel; and it constantly urges strengthening the defense forces for readiness against Arab attack and to retaliate boldly for border aggression.

Mapam rejects any trade in arms with West Germany and opposes dealing with her even to accepting reparations for the looting and destruction of Jewish property during the Nazi regime. The hatred for West Germany is matched, curiously, with dislike for Communist Czechoslovakia. This was aroused by the arrest and imprisonment in 1951 by Czechoslovakian authorities of an Israeli citizen, Mordecai Oren, a leading member of Mapam who was on an official mission in Europe, on the ground of Zionist activity. The following year saw the trials of fourteen leading Czechoslovakian Communists in Prague charged with anti-state activity, including the support of Zionism and Israel. These anti-Zionist and anti-Israel events shook Mapam. As a result, several leading members angrily formed an anti-Soviet splinter group which combined with Mapai. They were joined by others in 1953 when the Soviet Union arrested and tried a number of Jewish doctors in Moscow on charge of conspiracy and when, after the Soviet Legation at Tel Aviv had been bombed, the Soviet Government broke off diplomatic relations with Israel.

A loss of membership and drastic decline in its votes in the subsequent election prompted Mapam to move away from its wholly pro-Soviet orientation to a near-neutralist position. This, on the other hand, angered a group which feared that the party was losing faith in the Soviet Union and Marxism. The latter group, led by Dr. Moshe Sneh, who was a Zionist leader in Poland before he settled in Palestine in 1940, left Mapam also but formed a new more radical party,

called the Left Socialist Party, which refused to acknowledge that the Oren case, Prague treason trials, and Moscow Jewish doctors' plot revealed a true picture of Soviet intentions toward the Jewish people and Israel. Favoring closer cooperation with the Soviet Union than even the most radical members in Mapam desired, the Left Socialist Party eventually joined the Communist Party.

In 1949 Mapam emerged as Israel's second largest party; but in 1951 it dropped to third, in 1955 to sixth, and in 1959 it rose to fourth place. The sudden drop from third to sixth position in 1955 came as a result of the departure of Achdut Ha'Avodah from Mapam in 1954 to form a new party. Nevertheless, Mapam has been steadily losing its strength and influence. This can be attributed to several factors. One is Mapam's pro-Soviet and anti-United States orientation at a time when the Soviet Union has been siding with the Arab states against Israel and when the United States is extending vital financial aid to Israel's hard-pressed economy. The dependence of the economy and Zionist treasuries on the nations and Jews of the capitalist West is a factor which has compelled the leftist parties to compromise more than ever before and to retreat in their socialist programs. In addition, the early pioneering and dedicated Zionist immigration appears to have vanished, and in its place a huge influx of newcomers have come to Israel principally to find refuge from oppression and poverty and not to build a socialist state, especially not one based on agricultural collectivist leadership.

Achdut Ha'Avodah Party

In August, 1954, Mapam split, and Achdut Ha'Avodah (Unity of Labor) withdrew and announced it would reorganize as an independent party. Although the conflict appeared to be over discipline, it actually was the culmination of deep differences in both doctrine and program. These dissensions involved such basic issues as Israel's policies toward the Soviet countries and the Arab nations, the Arab refugee problem, internal security programs, and the fundamental conception of a political party and its structure. Primarily, however, Hashomer Hatzair, the Marxist backbone of Mapam, emphasized its basic revolutionary socialist goal and asserted a strong affinity for the Soviet bloc, while Achdut Ha'Avodah, Mapam's non-Marxist right wing, stressed the immediate needs and safety of the state, and lost any enthusiasm it had for the Soviet Union after the anti-Zionist Prague trials and the Moscow Jewish doctors' cases. Besides these differences in policy and program, the two factions maintained sharply opposing ideas as to inner party organization and processes. Hashomer Hatzair insisted on free internal discussion but external unity with a single program and voice

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and no factionalism. Achdut Ha'Avodah protested against the roughshod domination of Mapam by Hashomer Hatzair and the latter's failure to eliminate its factional practices. As a result, each group published its own political journal and maintained separate structures within Mapam. The split was inevitable.

Achdut Ha'Avodah's following has been largely composed of urban workers, and constitutes the second largest party group in the Histadrut. The party calls for reducing imports, especially of consumer goods, increasing exports, a greater emphasis on building industries, expanding agricultural and industrial production, and raising subsidies and export premiums. Its program urges a decrease in government expenses by freezing the present governmental establishment and not taking on new employees when the old leave, and by cutting down the amount of government transport and official trips abroad. It also demands the reduction of middlemen's profits by abolishing wholesalers in most cases, so that importers and manufacturers would sell directly to consumers and retailers, and the passing of a strict anti-cartel law under which offenders would be punished and deprived of credits, import and export licenses, and raw materials.

The party opposes any change in the present system of automatic cost of living allowances or a decrease in subsidies on foodstuffs. Suggestions to abolish automatic cost of living increases are considered attacks on workers' living standards. The present system of differentiation in salaries is viewed as being much too large and unjustifiable either morally or economically and as damaging to the development of the country's resources and to high employment. Achdut Ha'Avodah advocates strengthening the authority of local government and insists on the divorcement of political parties from economic enterprise. It favors compulsory service for Jewish youth in essential settlements, especially in the Negev, Israel's southern desert, and would abolish military rule in Arab villages.

In foreign policy, Achdut Ha'Avodah favors non-identification with either world bloc. As a nation in the Middle East, Israel must integrate with that area. Any other policy endangers the country's security and delays the chance of peace with the Arab states. In 1956, the party demanded that Israeli forces remain in the Sinai Peninsula and urged that if the Egyptian administration did not leave the Gaza Strip or if the fedayeen (Arab infiltrator) attacks were renewed, Israel should send its troops again across the border. With regard to Germany, it opposes any contact whatever with that country.

Left of Mapai and right of Mapam, Achdut Ha'Avodah emerged as the fifth largest party in its first bid as an independent party in the election of 1955. It dropped to sixth place in 1959.

Communist Party

At the extreme left is the Communist Party, whose history has been one of a small minority party isolated entirely from the Zionist realm and to a great extent from the labor movement in Israel. During the Mandate period, the party attacked Zionism as a "tool of British imperialism" and advocated an independent Arab state in Palestine. When the Soviet Union recognized Israel's sovereignty, the Israeli Communist Party also acknowledged the nation's existence but retained its traditional anti-Zionist outlook. Yet, at that time, shortly after statehood, the party favored the neutrality of the two world blocs in the Middle East and direct negotiations between Israel and the Arab states. When the Soviet Union, however, began to aid the Arab nationalist movements in an attempt to oust Western influence in the Middle East, the party switched its line to the support of Soviet intervention, to a pro-Arab program, and to attacking the Israeli Government's domestic and foreign policy as being dominated by "American imperialism."

Especially strong in Israel's Arab communities, the party receives approximately half of its votes from Arab areas. This is not strange, since the party campaigns on a program that appeals primarily to the Arabs. It calls for equal rights for them, return of the Arab refugees and full restoration of their property, and surrender to the Arab states of all territory in Israel's possession which was not assigned to Israel under the United Nations' partition plan.

The elation with which the party greeted Dr. Moshe Sneh and his Left Socialist Party followers in 1954 when they united with the Communists did not last long. Two years later, Communist opposition to Israel's invasion of the Sinai Peninsula in 1956 led to widespread resignations from the party. *Kol Ha'am* (Voice of the People), its daily newspaper, suffered a steep decline in its circulation; and party workers visiting Jewish immigrant villages were chased away by enraged settlers and often physically attacked by former fellow-members. In the Knesset, the only member who openly spoke out against sending greetings to the Israeli troops at the fighting front was an Arab Communist Party delegate who attributed all the trouble of the Middle East to "imperialist America." While the other Arab Knesset members who were affiliated with Mapai did not voice similar opposition, they emphasized their approval of Premier Ben-Gurion's offer to meet with President Gamal Abdel Nasser of Egypt to negotiate for peace.

In 1958, the merging of Egypt and Syria into the United Arab Republic stirred a certain restlessness in Israel's Arabs, and Communist Party leaders have been suggesting the possibility of an independent Arab Galilee to be linked with the new Arab state. Naza-

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reth, the leading Arab community in Galilee, is regarded as the stronghold of the Communist Party in Israel. Since many of the Arab communities in Galilee and elsewhere along the borders have been under military government since 1948, the party demands the abolition of such rule. Actually, the pro-Arab, anti-Israel policy of the Soviet Union has deepened the gap between Israel's small and almost outcast Communist Party and the mass of the population and destroyed the possibility of any united front with the other left-wing parties. The Communists oppose mass Jewish immigration and especially condemn Israeli pleas for the Jews residing in the Soviet countries to be allowed to emigrate to Israel. Bitter in its denunciation of the United States, the party constantly clamors for the expulsion of American technical and economic advisors and the cessation of American capital investment and other financial aid. A similar attitude is taken toward West Germany; the party continually inveighs against accepting reparations from or trading in arms with her.

In domestic policy, the Communists advocate nationalization of natural resources, banks, and foreign insurance companies; a ceiling on profits but no wage freezes; compulsory loans from employers and high property taxes; and reduction of military defense budgets and in length of military service. The party urges the adoption of a written constitution and opposes the existence of a system of religious courts and laws. Rejecting basic Zionist beliefs and programs, it neglected to establish any settlements, either collective or cooperative, in the rural areas and was left without any roots in a society in which nearly all the other major political parties have established such settlements. As a result, the party has little influence and no prestige. In 1949, it emerged as the seventh largest party, having received 3.5 per cent of the votes cast and won four seats in the Constituent Assembly. In 1951, it won five seats and its vote percentage rose to 4. The election in 1955 saw the party increase its seats to six with a percentage of 4.5; but in 1959 the party's votes dropped to 2.8 per cent, and the number of seats it won declined to three.

The Center

General Zionist Party

When Zionism grew among the Jews at the turn of this century, there were those who opposed religious and socialist affiliation and aimed at a unified movement steering clear of both such partisanships. These middle-of-the-road elements chose to win broad support for fund-raising, land-purchasing, diplomatic negotiation, settlement of immigrants, and capital investment in Palestine. In 1946 they formed

the General Zionist Party in Palestine. Two wings existed in the party: General Zionists A, comprising the left wing, which was oriented toward the labor movement; and General Zionists B, composed of industrialists, merchants, landowners, and agricultural producers, which opposed the labor movement's dominance in Zionist organization and activity.

In 1948, General Zionists A split away, forming the Progressive Party, and General Zionists B became the General Zionist Party, Israel's major party of the center. In its development as the champion of capitalism, the General Zionist Party exerts strong influence among businessmen and professionals. Conservative in program, it favors, in general, private enterprise based on a modified economic *laissez-faire*, Zionist and national unity as opposed to ideological and class warfare, and the strengthening of national institutions. The basis of the nation's economy should be private enterprise, and the state should cease promoting and subsidizing collectivism. All national functions carried out by political parties, labor federations, and religious orders should be under national control.

The General Zionists are especially bitter against the Histadrut operating business enterprises. On the other hand, private enterprise should be encouraged, the profit system ought to be protected, and "soak the rich" programs must be avoided. Productivity should be increased by granting greater financial rewards to skilled labor and by lowering the tax scale for the middle class and by promoting greater investment. This is important, the General Zionists feel, because it could eventually eliminate the need for foreign philanthropy. They are also opposed to political party operation of agricultural settlements and other enterprises.

Urging greater control over the Governments by the Knesset, the party at the same time demands broader autonomy for local government. It warned against continuation of Histadrut-run labor exchanges and insisted on their replacement by governmental employment bureaus, a step finally taken in 1959. Also, foreign currency control should be abolished. A written constitution is essential, the General Zionists contend, if the labor movement and labor parties are to be prevented from destroying freedom of enterprise and democratic society.

In foreign policy, the General Zionist Party is oriented to the West and advocates Israel's participation in Western defense treaty organizations. Despite this orientation, the party deplored Israel's yielding to the United States and withdrawing from the Sinai Peninsula in 1956. The party determines its attitude toward foreign nations not solely on the basis of capitalist and democratic institutions but also on whether they treat their Jewish population fairly and justly. On the

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latter score alone the General Zionists oppose the Soviet bloc. The party urges that world opinion should influence these states to permit the Jews to leave and settle in Israel. Freedom of immigration is one of the General Zionists' basic programs.

In 1949, the General Zionists were the fifth largest party, and in 1951 they rose to second. After serving as a coalition partner in the Government during 1952–1955, the party found itself hampered and restrained, unable to assert its traditional anti-Histadrut and anti-Mapai role, and losing its support among the electorate. It dropped to third place in 1955 and to fifth in 1959.

Progressive Party

Formed in 1948 as the result of a split within the ranks of the General Zionists, Israel's Progressive Party resembles England's Liberal Party rather than the Progressive Party in the United States. Its leadership has come from Central Europe, and its membership is primarily middle-class and professional. Moderate in outlook and small but influential, the party generally takes stands on moral principles and asserts its greatest opposition to class approaches in politics and economics. It rejects the class struggle and asserts the supremacy of national over class interests. One of its main programs has been the urging of a broad coalition government in the interest of national unity.

The faction which split away from the General Zionists to establish the Progressive Party left because it favored a more liberal, although non-socialist, outlook toward labor and social welfare. It advocates a written constitution with specified guarantees of individual freedoms and rights, including collective bargaining rights for labor. The party stresses the need for encouraging private investors by easing their tax burden, transferring Histadrut-operated enterprise to either the state or the private economy, and reducing and de-politicalizing the civil service.

In the Knesset, the Progressives generally vote in support of Mapai measures; and in the coalition Governments — in most of which the Progressives have participated — they have, likewise, favored Mapai and have continually held the portfolio of Minister of Justice. Without any collective or cooperative farm settlements to serve as a basic source of strength, the Progressives emerged as sixth largest party in 1949. They dropped to eighth place in 1951, declined to ninth in 1955, and regained eighth position in 1959.

One of the effects of the "Lavon Affair," which occurred in December, 1960, and is described in Chapter 6, has been the probable reuniting of the Progressives and General Zionists. In April, 1961, the two

appeared to have reached the merger stage with the purpose of forming the Liberal Party. Drawing strength from the universities and business and professional organizations, the new group is expected to call for abolition of the military government in Arab areas, for equal treatment of Arab citizens, for admitting a substantial number of Arab refugees, for reducing the emphasis on defense, and for governmental leaders to refrain from condemning Zionists abroad for not settling in Israel.

The Right

Mizrachi Party

Originating in Eastern Europe in 1902 and organized as a political party in Palestine in 1918, the Mizrachi Party (Spiritual Center Party) is composed mainly of urban middle-class, orthodox Zionist Jews. It urges that Israel be built and governed according to the traditional teachings of the orthodox rabbinate. Its contention is that the bases of Israel's culture are orthodox religion, customs, and literature. Liberally orthodox and opposed to the extremism of the ultra-orthodox Agudat Israel Party, Mizrachi has not committed itself politically to the establishment of a theocratic state. Following a "live and let live" policy, Mizrachi has joined in most of the coalition Governments and has frequently supported Mapai in crucial moments, although over several religious issues it withdrew from Cabinets only to return after winning some concessions from Mapai.

In its foreign program, Mizrachi favors friendship with the United States; and domestically, it opposes socialism, collectivism, and labor domination of social welfare, education, and colonization. It supports private enterprise and economic laissez-faire, and advocates middle-class, individualized farming instead of collectives. It is especially opposed to the role of the Histadrut as economic entrepreneur.

Hapoel Ha-Mizrachi Party

Because of Mizrachi's conservatism, a group of orthodox religious industrial workers and farmers from collectives and cooperatives split away from Mizrachi in 1922 and formed the Hapoel Ha-Mizrachi Party (Spiritual Center Workers Party), which combines orthodox religion and labor Zionism. In its daily activities, Hapoel Ha-Mizrachi leans toward the labor movement and the labor and farmer cooperatives and collectives. Its slogan is "Bible and Work," and, unlike the Mizrachi, it has established cooperative agricultural settlements and engages in trade union activity.

While the Mizrachi is the weakest of Israel's four religious parties, Hapoel Ha-Mizrachi is the largest and most popular, and has won

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many new adherents among Jews emigrating from North African and oriental countries. In January, 1955, the Mizrachi and Hapoel Ha-Mizrachi decided to merge for political purposes under the name of the National Religious Party. In the election later that year, the combined group emerged as the fourth largest party, and in 1959 rose to third place. When the two competed separately in 1951, Mizrachi tied with Agudat Israel for tenth place while Hapoel Ha-Mizrachi tied with Herut for fourth. In 1949, Mizrachi and Hapoel Ha-Mizrachi joined with Agudat Israel and Poalei Agudat Israel, the other two religious parties, to compete as the United Religious Front, which won third place, behind Mapai and Mapam.

Agudat Israel Party

Ultra-orthodox of the religious parties is the Agudat Israel Party (Association of Israel). Originally founded in 1913 in German-occupied Poland as an organization for counteracting the movement to secularism among the Jews of Central and Eastern Europe, it supported religious colonization in Palestine but concentrated almost wholly on building orthodox schools and ignored most other settlement activities. During the Mandate period, Agudat Israel refused, on religious grounds, to participate in the Jewish community's elections, quasi-governmental institutions, and Zionist economic life. In fact, the organization still opposes the non-religious aspects of Zionism.

In 1948, when Israel became a state, Agudat Israel acknowledged that it could not hope to reach the country's populace except through political activity. In that year, the Agudat Israel movement in Israel organized a political party and discarded its previous belief that co-operating with non-religious and irreligious elements would bring the wrath of God down on the Jewish national homeland and would prevent the coming of the Messiah. It had been on this concept that Agudat Israel opposed affiliation with or support of Zionism. With statehood, Agudat Israel approved the establishment of Israel by non-Messianic hands on condition that the state be based strictly and fully on orthodox religious law and practice.

More militant and aggressive in its religious activity than Mizrachi, Agudat Israel proclaims as its program the teachings of the Bible and asserts that orthodox traditions must govern all aspects of Israeli life. Its aim is to transform the secular state into a theocratic one based on total conformity with orthodox religious doctrine. In keeping with this approach, the party has opposed the adoption of a formal constitution for Israel since it would not be God-given as were the Ten Commandments. It decried the conscription of women into the military or even non-military service, and campaigned and voted

against secular control and operation of schools. The party has shown violent opposition to such anti-orthodox practices as the raising of pigs and sale of pork, violations of the Sabbath, and mixed swimming. Vigorously anti-atheistic. Agudat Israel rejects any dealing with Communist countries; and mindful of the Nazi regime's rule of terror against Jews, it similarly rejects any relationships with Germany.

Strengthened by the influx of Jewish immigrants from North Africa and the Middle East, Agudat Israel has been growing. In 1949, the party joined with the other three religious parties to form the United Religious Front. Campaigning separately in 1951, Agudat Israel tied with the Arab Democrats as eighth largest party. In the third and fourth elections, it combined with Poalei Agudat Israel to form the Torah Religious Front which tied with the Communist Party for seventh place in 1955 and with the Progressive Party for the same position in 1959.

Poalei Agudat Israel Party

The Poalei Agudat Israel (Workers of the Association of Israel) movement was founded in Poland in 1922 as the labor wing of Agudat Israel with the purpose of working in the labor movement to defend religious orthodoxy and to counteract the inroads of secular organizations, especially the socialist ones, among the Jewish laborers. While Agudat Israel opposed collective or cooperative settlements in Palestine, Poalei Agudat Israel supported them and founded more than a dozen such rural villages. Unlike its non-labor oriented parent body, Poalei Agudat Israel favored statehood, mass immigration, and military defense of the state against hostile Arab nations. Despite its labor orientation, the party has not joined the Histadrut because of the latter's domination by non-religious and anti-religious Mapai members.

Poalei Agudat Israel joined in with the three other religious parties in 1949 to form the United Religious Front. In 1951 the party submitted a separate list and tied with the Mizrahi for tenth place; and in 1955 and 1959 it combined its list with that of Agudat Israel under the Torah Religious Front.

Herut Party

At the extreme right is the Herut Party (Freedom Party), which was formed in 1948. To understand this party's outlook one must go back to 1925 when the Revisionist World Movement was organized by Vladimir Jabotinsky, organizer of the Jewish Legion of World War I. The Movement advocated a revision of the policy of the Zionist leadership under Dr. Chaim Weizmann toward Great Britain, and urged

an anti-British orientation, expansion when the Jewish state would be established to include both sides of the Jordan River, and emphasis on politicalization rather than colonization. Their strict party discipline, militarism, extreme nationalism, and program of banning strikes and of compulsory arbitration led to frequent charges that the Revisionists were fascistic.

The Revisionists remained in the World Zionist Organization until 1935 when Jabotinsky led them out and formed the New Zionist Organization. This group was supported mainly by middle-class Jews from Central and Eastern Europe and was especially critical of the Zionist Organization's policy of restraint during the Arab riots in Palestine in 1936 to 1939. When World War II broke out, two terrorist groups emerged from the New Zionist Organization — the Irgun Zvai Leumi and the Sternists.³ When the War ended, the Revisionists left the New Zionist Organization and rejoined the Zionist Organization; but the Irgun Zvai Leumi rejected the move by the Revisionists, split away, and in 1948 formed the Herut Party with a program resembling that of the old Revisionists before World War II. The following year, Herut and the Revisionist organization merged; and today, in Israel, Herut is the sole exponent of this united body, while in other countries it is represented by the Revisionist organizations. There is, nevertheless, a community of ideology and program between the Herut Party of Israel and the Revisionists throughout the world.

Herut's ranks include former underground fighters of the Mandate period, old Revisionists, and new immigrants who feel Israel must expand and acquire much-needed water and oil resources and fertile land lying on the Arab side of the Jordan River. The party opposed the partition of Palestine and urged the use of force at the time to prevent its occurrence. It has constantly asserted the right of the Jewish people to the land of Israel in its full historical borders as an inalienable right. To Herut the inadequacy of the present territory and borders is a basic and dynamic feature of Israel's geopolitical reality. Consequently, the party accuses Mapai of betraying the country's interests by not advocating a Jewish state on both sides of the Jordan River. In its outlook, an attack by the surrounding Arab states is inevitable, a situation which makes a preventive war justifiable. The party continues to call for Israel to take over the Gaza Strip in order to eliminate a springboard for future invasion by Arab nations. It acknowledges that such a move could lead to war but defends the course as necessary to obviate a future war of destruction. Its position

³ The "Sternists," or "Lohamei Herut Israel" (Fighters for the Freedom of Israel), were founded in 1940 by Dr. Abraham Stern and a group of dissenters from Irgun Zvai Leumi as a political organization which utilized terror in its fight against the British.

has always been anti-Soviet and is still anti-British despite Great Britain's alliance with Israel and France in the invasion of Egypt in 1956. Herut favors a Franco-Israel security treaty, but urges that no diplomatic relations be carried on with Germany at any time for any purpose.

The party's strength is largely centered in the big cities, especially Tel Aviv and Jerusalem. As the principal party of the opposition, it has the support of the middle-class sections of the population which are bitter against the high taxes and low levels of investment and productivity. Anti-socialist and rejecting Mapai's concept of a broad economic role by the state, Herut would ban strikes, institute compulsory arbitration in labor-management disputes, and strip the Histadrut of its business enterprises, giving them to private hands. Favoring private enterprise with as few restrictions as possible, the party opposes any and all collectivism, economic planning and "soak the rich" programs, and demands that political parties cease operating businesses, schools, and housing developments. Economic controls should be gradually eliminated and foreign currency control abolished. Incentives must be provided to increase private investment and productivity in order to liberate the economy from dependence on foreign charity. Nothing, though, should be done to restrict mass Jewish immigration, especially of skilled people. Government economy also is an important part of Herut's program. It insists on cutting down the size of the civil service. As a measure for protecting its own existence and rights, the party presses for a written constitution with a built-in bill of rights.

Herut's popularity has been growing nearly continually. In 1949, it ranked as fourth largest party, declined to fifth place in 1951, climbed to second in 1955, and remained in second place in 1959 but increased its number of seats in the Knesset. Herut and the Communists are the only two major parties which have not participated at any time in any of the coalition Governments.

Arab Parties

While there do exist Arab political parties, as yet they are not sufficiently strong and independent to represent adequately the interests of Israel's Arab inhabitants. The majority of the leaders of the Arab communities fled Israel in 1948 during the Arab-Israel war and have not been replaced. Constituting less than 10 per cent of the country's electorate, the overwhelming majority of Arab voters have cast their ballots for the Arab parties rather than for Mapai or the pro-Arab and anti-Zionist Communist Party. The Arab delegates to the Knesset, generally landowners or merchants or the sons of prominent com-

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munity officials of the past, have won their seats on lists submitted by Arab parties which represent various Arab sections of Israel. For example, the Agriculture and Development Party represents the "Little Triangle" area; the Cooperation and Brotherhood Party represents the Druze communities in Galilee and also Druze and Moslem sections near Haifa; and the Progress and Development Party represents Moslem and Christian Arabs in the Nazareth area.

In the past, the Arab parties in the Knesset supported Mapai on all issues except those concerned with military government in the Arab communities and with absentee Arab refugee property. At the present time, the general trend among Arab voters has been to support the independent Arab parties. As a result, the votes for those Arab parties which supported Mapai over the years and the Arab votes for the Communist Party have declined. Curiously, Mapam, on the other hand, has been increasing its support among the Arabs. Mapai and Mapam have been the only Zionist parties which have attracted an appreciable degree of support among the Arab inhabitants, and Mapam is the only Zionist Party which has taken in Arabs as full-fledged party members equal to Jewish members.

Although the votes of Arab delegates in the Knesset at times have aided Mapai substantially, enabling the latter to put through a number of important pieces of legislation, they have not, in themselves, provided Mapai with a majority of sixty-one votes or more. Moreover, the Arab parties frequently embarrass Mapai by urging the abolition of military rule in the Arab communities, demanding greater local autonomy for these areas, insisting on full equality for Arabs in Israeli society, and requesting financial aid to raise the Arabs' standard of living.

The Arab parties are small and have won few seats in the Knesset. The most seats any individual Arab party ever won were three, and the total number of seats won by all Arab parties which were successful in placing delegates in the Knesset was five. Among these parties are: the Arab Democratic Party, which runs its own candidates but generally votes with Mapai and which won two seats in 1949, three in 1951, two in 1955, and under the new name of Progress and Development Party, won two seats in 1959; Progress and Work Party, another such Arab party, which won one seat in the Second Knesset and two in the Third, and then, under the name of Cooperation and Brotherhood, won two seats in the Fourth Knesset; and Agriculture and Development Party, a third such party, which won one seat in 1951, 1955, and 1959. In 1959, two other Arab parties submitted lists but were unsuccessful in placing delegates in the Knesset. These were the Arab Independents Party and Arab Workers Party.

Jewish Community Parties

In addition to the major Jewish and the Arab parties, there are a number of small Jewish community parties which represent the special interests of certain sections of the population. One, the Sephardim Party, is composed of Jewish immigrants and settlers with Spanish and Portuguese ancestry who came to Israel from North Africa or the Middle East. Another is the Yemenite Party representing the Jews who emigrated from Yemen.

In 1959 six new community parties submitted lists. They were: North African Union; Independent Party, also composed of North Africans; Yemenite Movement; New Immigrants Front; National Sephardis; and National Sephardi Union. None was able to win a seat in the Knesset. Nevertheless, the new parties dedicated to the cause of Jewish immigrants from North Africa and oriental countries have been increasing their votes. The recent riots of such Jews were the result of bitter feelings of inequality and discrimination; and, if this situation persists, the community parties may grow and eventually win representation in the Knesset.

During the election of 1949, a Women's International Zionist Organization Party campaigned on a program of women's rights. Succeeding in electing only one delegate to the Knesset, this women's group revised its outlook, accepted the principle that as emancipated women they should participate in politics alongside the men and not as a special interest group, and disbanded as a party.



SUGGESTED READINGS

- Akzin, Benjamin. "The Role of Parties in Israeli Democracy," *The Journal of Politics*, XVII (November, 1955), 507-45.
- Etzioni, Amitai. "Alternative Ways to Democracy: The Example of Israel," *Political Science Quarterly*, LXXIV (June, 1959), 196-214.
- Gutmann, Emanuel. "Citizen Participation in Political Life in Israel," *International Social Science Journal*, XII (1960), 53-62.
- Hertzberg, Arthur, ed. *The Zionist Idea: A Historical Analysis and Reader*. New York: Doubleday & Co. and Herzl Press, 1959.
- Roshwald, Mordecai. "Political Parties and Social Classes in Israel," *Social Research*, XXIII (Summer, 1956), 199-218.
- Vlavianos, Basil J., and Gross, Felix, eds. *Struggle for Tomorrow: Modern Political Ideologies of the Jewish People*. New York: Arts, Inc., 1954.

5

Electoral System

The United Nations General Assembly Resolution of November 29, 1947, required that a national election be held for the Constituent Assembly, and defined qualified voters as being persons over eighteen years of age who were either Palestinian citizens residing in the state or Arabs and Jews residing in the state, although not Palestinian citizens, who before voting signed a notice of intention to become citizens of the state. Also required was the establishment by the Constituent Assembly of a legislative body elected by universal suffrage and secret ballot on the basis of proportional representation.¹

Six months after statehood, Israel's Provisional State Council enacted the Constituent Assembly Elections Ordinance,² which adopted the proportional representation electoral system employed by the World Zionist Congresses and the single national constituency principle and party lists of candidates procedure that existed in the Jewish community quasi-government in Palestine during the Mandate period. Although the Ordinance governed solely the first national election in 1949 and was replaced by legislation directing the election in 1951 to the Second Knesset, the electoral system established originally in 1948 has been, with several modifications, the one which has continued in effect to this day. Since the Constituent Assembly Elections Ordinance of 1948 and the Second Knesset Elections Law of 1951³ were temporary enactments applicable only to their particular elections, the Knesset passed in 1955 a permanent election law formalizing the existing

¹ Sections 9-10, United Nations General Assembly Resolution 181 (II) of November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16-November 29, 1947, A/519* (January 8, 1948), 134-35.

² Constituent Assembly Elections Ordinance. 5709-1948, enacted on November 18, 1948, *Laws of the State of Israel*, II (5709-1948/49), 24-36.

³ Second Knesset Elections Law, 5711-1951, passed on April 12, 1951, *Laws of the State of Israel*, V (5711-1950/51), 99-117.

electoral system. This Knesset Elections Law of 1955⁴ and the Basic Law (The Knesset) of 1958⁵ together consolidate all fundamental legislation relating to the Knesset's structure and functions, including qualifications of members and the manner of their election.

Israel's Knesset must be elected by universal, direct, equal, secret, and proportional elections. Elections are "universal" in that they are held throughout the nation on the same one day; "direct" in that the voters cast their ballots directly for a party of their choice; "equal" in that every citizen eligible to vote is entitled to one vote; "secret" in that each voter votes in the privacy of a voting booth, places his ballot into a sealed envelope, and drops the envelope into a ballot box in the presence of official inspectors; and "proportional" in that, to be successful in winning a seat in the Knesset, a party must receive a certain number of valid votes which is determined by the number of Knesset seats in proportion to the total number of valid votes cast. Elections to the Knesset are held regularly every four years or specially if no cabinet can be formed which has the confidence of a parliamentary majority and the Knesset votes to dissolve itself. Election day is the third Tuesday of the Hebrew month Cheshvan in the year in which the term of the outgoing Knesset ends.⁶

Voter Qualifications

Every Israeli citizen eighteen years old or over on December 31 preceding the election year has the right to vote in elections to the Knesset unless he is legally deprived of this right by the courts.⁷ His eligibility to vote is restricted to the land area of Israel and on Israeli ships; and he may vote only at the polling station whose roster of eligible voters contains his name and only on presentation of his identification booklet or identity card.⁸

⁴ Knesset Elections Law, 5715-1955 (Consolidated Version), *Laws of the State of Israel*, IX (5715-1954/55), 30-52.

⁵ Basic Law (The Knesset), 5718-1958, enacted on February 12, 1958, *Laws of the State of Israel*, XII (5718-1957/58), 85-89.

⁶ Sections 4 and 9, *ibid.*, 85-86.

⁷ Section 5, *ibid.*, 85. In the Mandate period under the Jewish Community Regulations of 1928, all Jews twenty years of age or over who were residents of Palestine for at least three months had the right to vote. For Israel's first election in 1949, the Constituent Assembly Elections Ordinance gave the franchise to all residents eighteen years old or over rather than to all citizens. After the passage of the Nationality Law in 1952, the Knesset enacted the Knesset Elections Law in 1955 giving the right to vote to all citizens eighteen years of age or over.

⁸ Section 6, Knesset Elections Law, 5715-1955 (Consolidated Version), *ibid.*, 31.

Roster of Eligible Voters

A separate roster of eligible voters, known popularly as a voters' list, is prepared by the Minister of the Interior for each polling district and contains the names of all voters who were registered on December 31 prior to election day as inhabitants of that district. During a six-week period in January and February of an election year, registration notice cards are sent by registered mail to all persons on the roster of eligible voters. A signature on this card is *prima facie* evidence on election day that the bearer is entitled to vote in his particular district. Those people who fail to receive their registration cards are by this omission officially notified that either their names are not on the eligible voter roster or that they are registered at a previous address, a situation not uncommon in Israel where hundreds of thousands of new immigrants move several times before they settle at some permanent address. In such an event, it is the individual's responsibility to register for the election at a designated place at a given time.

In April, the voters' lists are posted in all the polling stations ten hours a day for ten days prior to the 15th day of the month. Persons whose names are missing from this list may appeal their cases to the Central Election Committee and from the latter to the district courts for final decision. Corrected voters' lists must be submitted to the Central Election Committee at least fifteen days before the election. The total of all these corrected district registers constitutes the official Register of Voters for the Knesset. This Register serves also as the register of voters for local elections.

Registers are prepared by a special voters' register board under the chairmanship of the head of the Central Election Committee, and are kept current to be valid from May 9 of one year to May 8 of the next. This makes available and ready a valid register for elections at short notice. Previously, it took eight or nine months to prepare a register for holding an election.

Party Lists

Parties desiring to participate in a general election must submit their lists of candidates to the Central Election Committee by at least forty-six days prior to election day. Before parties are permitted to submit lists and to take part in the election, they must first qualify by either having representation in the outgoing Knesset or by submitting the signatures of at least 750 eligible voters. The Central Election Committee may reject a list for not being in compliance with the regulations; but an appeal on a rejection for any reason may be taken to the Supreme Court. Lists have been invalidated for various violations,

principally because of insufficient valid signatures on the petitions of small parties without parliamentary representation either the result of forged names or of the deliberate misleading of new immigrants who had never voted before into signing the wrong petitions.

Party lists contain the names of from one to 120 candidates — the number of seats in the Knesset. Most of the larger parties submit full lists of 120 candidates, and many of the smaller parties submit lists of much fewer candidates. The order of appearance on the lists is important. If a party, for example, receives 50 per cent of the valid votes, and wins sixty seats in the Knesset, the first sixty people on the party's list take office. The order of listing is decided by the party's central or executive committee and is generally indicative of party rank or of importance as a vote-getter. To be eligible as a candidate a person must be a citizen who has reached his twenty-first year on the date by which the party lists must be submitted to the Central Election Committee. Judges may not become candidates; and members of the armed forces or civil servants standing as candidates must be given leaves of absence from the day of nomination to election day and, if elected, for the term of service in the Knesset.⁹ By-elections to fill vacancies caused by death or resignation are unnecessary. A vacant seat is automatically filled by the first next person on the election list of the party involved.¹⁰

Casting Ballots

The Israeli voter casts his ballot for a political party rather than for individual candidates. He has no right to strike out the name of any candidate on the list for which he votes or to write in any other names. He votes for an entire list of the one party he decides to cast his ballot for, and may not split his vote in any manner.

Voting is facilitated by having each party list identified by a distinguishing letter or combination of two letters of the Hebrew alphabet. These symbols are assigned by the Central Election Committee, and are also used by the parties during their campaigning. When the voter presents his identity card and has it stamped by the polling committee, his name is checked off the voters' list; he then enters the enclosed polling booth and makes his choice from among the stack of printed slips bearing the letter symbols of the various parties. Choosing the paper with the symbol of his party, he places the slip in an opaque envelope, seals it, and emerging from the booth, places it in the ballot box in the presence of election inspectors.

⁹ Section 6, Basic Law (The Knesset), *ibid.*, 85.

¹⁰ Sections 25–33, Knesset Elections Law, 5715–1955 (Consolidated Version), *ibid.*, 37–39.

Supervision of Elections

A Central Election Committee is responsible for the nation-wide conduct of elections. It is composed of a membership selected by the parties on the basis of one representative for every four delegates it has seated in the outgoing Knesset, with the remaining members chosen according to the size of the surpluses, except that every party represented in the Knesset with less than four delegates is guaranteed one member on the Committee. The number of its members varies, but it has generally been between thirty and thirty-five and is at the present time thirty-three. Cabinet ministers, deputy ministers, state officials, and members of the armed forces may not serve on the Committee. The chairman must be one of the judges of the Supreme Court elected by the Court's judges themselves, and is on the Committee in addition to the members assigned by party groups.

The responsibilities of the Central Election Committee include: (1) accepting or rejecting party lists of candidates; (2) prescribing election districts — fourteen at present — and appointing district election committees, also composed of party representatives, to supervise the elections on a district level; and, in turn, the district committees establish and supervise committees in charge of polling stations, which now number 2,502; (3) developing technical procedures and making administrative arrangements necessary to conduct the elections; (4) policing the campaigns to ensure that the laws and rules are being obeyed; and (5) counting, certifying and publishing election results.

Mechanical aspects of voting, such as identification, registration, and validation and local tabulation of ballots, are directly supervised by the polling committees appointed by the district election committees to operate in each of the polling stations established by the Minister of the Interior. Complaints on poll practices are initially made to the polling committees, and appeals may be brought to the district election committees and then to the Central Election Committee.

Election Campaign

Election day is a legal holiday. Except for public services — hospitals, banks, restaurants, hotels, theaters, transportation and communications — business and industry are closed, and the serving of alcoholic drinks is prohibited. The polls stay open from 6:00 A.M. until 11:00 P.M., except in the rural settlements where the hours are 8:00 A.M. to 9:00 P.M. No election campaigning is permitted from 7:00 P.M. the night before till the polls officially close. This ban covers all kinds of electioneering, including canvassing, public meet-

ings, processions, broadcasts, sound trucks, and distribution of campaign literature.¹¹

Campaigning in Israel has been massive, noisy, hard-hitting, and, for such a small country, unusually costly. Party competition is vigorous all year round, but especially before elections. Political doctrines are serious matters among the Israelis; and party members urge not merely election day support but try fervently to win adherents to their cause.¹² Campaigning is forbidden in military camps or among the military forces, and members of the armed forces may not take part in election campaigns. The only action permitted is the display by each party of one copy of its list of candidates and its election platform at each military post. Special polling stations are located at military establishments to enable members of the armed forces to vote. State officials having authority in a particular area may not take part in any electioneering in that area. Within the broad legal range outlined above, campaigning is wide open and free, with one exception. The Central Election Committee has the duty and power to fix the maximum size of election campaign posters. Insofar as expenditures by parties for election purposes are concerned, there is neither any limitation nor even a requirement that they be reported or publicized.¹³ In the 1959 election campaign, it was reported that the Mapai spent 7,000,000 pounds (\$3,888,900); the Progressives, 1,500,000 pounds (\$833,300); Herut, 1,300,000 pounds (\$722,200); and Mapam and Achdut Ha'Avodah, 1,000,000 pounds (\$555,600). A total of close to 20,000,000 pounds (\$11,111,000—about twenty pounds (\$11.00) for each registered voter—is believed to have been spent by all the parties, a much higher average per voter than in either the United States or Great Britain.

Distribution of Seats

To facilitate the counting of votes, polling stations were generally established on the basis of one for every 800 voters. As soon as the polls close, the polling committees count the votes and send the results with the ballots to the district committees which, in turn, summarize the count in the districts and send these totals with the ballots to

¹¹ Sections 8–9 and 16, *ibid.*, 31–32 and 34.

¹² At the time of this writing, a bill in the Knesset was passed on electioneering methods. It prohibits electioneering by movies or with entertainment programs, including the appearance of artists and the playing of musical instruments and singing. Its provisions also set limits on billboards, advertising in vehicles and the use of meeting halls and the radio for electioneering purposes.

¹³ Sections 51–55, Knesset Elections Law, 5715–1955 (Consolidated Version), *ibid.*, 44–45.

the Central Election Committee; the latter Committee computes the total votes received country-wide by each party and determines the distribution of seats in the Knesset on the basis of the proportional list system.¹⁴ This is a form of proportional representation but not the Hare system which is sometimes used in cities in the United States.

For the purpose of election results, the whole of the area of Israel is regarded as a single constituency. This is unlike the constituency system in England or the district system in the United States where there are several hundred constituencies or areas each sending one member — the one who receives the most votes in his constituency — to Parliament or Congress. In Israel, individual candidates do not receive votes, only parties do; and unless a party receives at least 1 per cent of the total valid votes cast for all parties in the election, it cannot participate in the distribution of the Knesset seats. Parliamentary seats are distributed on the basis of parties receiving a specified proportion of votes calculated as follows: (1) the total number of valid votes cast for all parties participating in the distribution of seats is divided by the number of members of the Knesset, and the whole number resulting from this division is called "the quotient"; (2) each party participating in the distribution of seats is awarded a number of seats equal to the whole number yielded by the division of its valid votes by this quotient; and (3) each party participating in the distribution of seats is assigned a "surplus of votes" by deducting from the number of its valid votes the figure produced by multiplying the quotient by the number of seats it has received; and such parties will then receive, in the order of the size of their surplus of votes, one additional seat out of the seats remaining after the initial distribution. When a party is awarded seats in the Knesset, it must assign those seats to the persons whose names are included in the party's list of candidates submitted to the electorate. The assignment is made according to the order of appearance on the list, starting from the top. A party entitled to five seats, for example, must give those seats to the first five people on its list.¹⁵

Not later than fourteen days after the election, the Central Election Committee must publish the election results in the *Official Gazette*, furnishing the number of valid votes cast for each party list, the number of votes invalidated, the number of seats awarded to each successful party, and the names of the candidates elected to the Knesset. Certificates are presented by the Central Election Committee to the latter candidates confirming their election to Parliament. Any person eligible to vote may appeal to the Knesset against the election results on the ground of improper or defective voting practices, faulty computa-

¹⁴ Sections 41–42, *ibid.*, 41–42.

¹⁵ Sections 10, 43 and 45, *ibid.*, 32, 42.

tion of votes, or erroneous distribution of seats. Such an appeal must be submitted to the Knesset within fourteen days after publication of the election results. The Knesset may then annul the election in a particular polling district and order a new election to be held in that district, or withdraw the seat from a certain candidate and give it to another person. A decision by the Knesset in such matters is final.¹⁶

Election Results

Since statehood Israel has held four national elections. The first was conducted on January 25, 1949, at a time when the Arab states and Israel were at war, and had the special purpose of electing delegates to the Constituent Assembly. Of a population approximating 800,000 with 506,567 eligible voters, 440,095 votes were cast. Twelve of the twenty-one participating parties won seats in the Assembly. Most of the voters were of European origin with labor Zionist backgrounds and had been living in Palestine for several years. Their primary interests were national security, food, housing, jobs, and ability to buy essential consumer goods. Food rationing and other economic controls were accepted as temporarily necessary.

Israel's second election took place on July 30, 1951, when the complexion of the country was changed by an influx of hundreds of thousands of immigrants, nearly doubling the population in the short period of four years, and when austerity had reached its peak. Of the 924,885 eligible voters, 75.4 per cent voted casting 695,007 votes. Fifteen of the seventeen parties competing in the election won seats in the Knesset.

On July 26, 1955, the electorate went to the polls for the third time. The election was held at a time when the main issue was national security and survival. Arab infiltrators had succeeded in puncturing border defenses, and Egypt was receiving tanks and jet planes from the Soviet Union. Surrounded by hostile, threatening states which were harassing her shipping, and denied arms from the countries of the West except France, Israel felt isolated. Nineteen parties participated, and 1,057,795 people were declared eligible to vote, more than double the number in 1949. Of these, 82.8 per cent voted, casting 876,085 votes. Twelve of the nineteen competing parties won seats in the Knesset.

Reflecting the people's general feelings for bold reprisal against Arab infiltration and border attacks, Herut — the champion of such a policy — won the greatest percentage increase and emerged as the second largest party in the Knesset. Apparently, the average Israeli felt he was much better off economically than he was before. He had more food, housing, and other consumer goods; and the spiral of inflation had not

¹⁶ Sections 46-47, *ibid.*, 42-43.

been so ruinous as it was in the earlier period of statehood. The real grievances seemed to be the wage freeze policy of Mapai and the Histadrut; the inefficiency of the governmental bureaucracy; the Mapai-led Government's "soft" policy toward the Arab states; the conscription of young men and women for military and other national service just when they were needed by their parents to assist them financially; and the revelation that Dr. Israel Kastner, a Mapai leader, had rescued a few hundred selected Hungarian Jews from the Nazis during World War II at the price of the lives of many thousands of other Jews in Hungary — a disclosure which caused the fall of the Government. The new immigrants in the country, mainly from North Africa and the Middle East, cast the 181,078 additional votes over those cast in 1951. They had never voted before anywhere and were not fully absorbed into Israeli society. Despite this, all attempts to establish separate parties composed of these new immigrants and to represent their special interests or to win their support for existing community parties failed.

Originally scheduled for November 17, the election to the Fourth Knesset was held on November 3, 1959. The change was voted by the Knesset because of the bitter controversy that broke out the previous summer over the sale of Israeli-made arms to West Germany, resulting in the resignation of the Government. The environment in which the election took place was quite different from previous election periods. Israel had won allies in Great Britain and France in an invasion of the Sinai Peninsula and the Suez area that, though thwarted in its objectives, put an end to Arab infiltration attacks and resulted in the safeguarding of some of Israel's vulnerable borders by the United Nations' Emergency Force. Economically, the country had advanced, with most people enjoying a higher standard of living than in 1951 and 1955. One of the major changes in the political scene was the appearance of new, young candidates on party lists, notably Abba Eban, former Ambassador to the United States, and Moshe Dayan, former Chief of Staff of the Army of Israel, both of Mapai. Of the twenty-four competing parties, twelve won seats in the Knesset. The total number of eligible voters was 1,218,724, an increase of 160,929 over that of 1955; and the 81.6 per cent which voted, as compared to 82.8 per cent in the previous election, cast 994,306 votes.

The principal point developed by the election was that Premier Ben-Gurion's and Mapai's bold policy toward the hostile Arab states met with the electorate's approval. Another effect was that, in the future, much greater attention would be given to the interest of the oriental and North African Jews in Israel, for while these new immigrants would not rally behind their own small community parties, they gave their support to those major parties which placed on their slates members of the Sephardic community.

Mapai	370,585	274,735	256,456	155,274
Herut	130,515	107,190	45,651	49,782
National Religious	95,581	77,936		
Mapam	69,468	62,401	86,095	64,018
General Zionist	59,700	87,099	111,394	22,661
Achdut Ha'Avodah	58,043	69,475		
Torah Religious Front	45,569	39,836		
Progressive	44,889	37,661	22,171	17,786
Communist	27,347	38,492	27,334	15,148
Progress and Development	12,347	12,511	8,067	
Cooperation and Brotherhood	11,104			
Arab Democratic List		15,475	16,370	7,387
Agriculture and Development	10,902	9,791	7,851	
United Religious Front*				52,982
Hapoel Ha-Mizrachi			46,347	
Mizrachi			10,383	
Agudat Israel			13,799	
Poalei Agudat Israel			11,194	
Sephardim			12,002	15,287
Yemenites			7,965	4,399
Fighters				5,363
Women's International Zionist Organization				5,173

Electoral System Reform

The first general election in 1949 was held at a time when Arab armies were still threatening Israel's existence and immigrants were beginning to pour into the country. There was no time for new electoral ideas and experiments. The system of proportional representation which governed the elections of the various Zionist parties and groups to the World Zionist Congress was adopted with little discussion as to its shortcomings. As the years passed, and coalition Government with periodic Cabinet crises continued, pressure for changes in the electoral system has grown. The proposed changes have included reform within the existing proportional list system and also outright replacement by another electoral scheme. With regard to the former, the proposals recommended provided for a high enough minimum percentage of the total valid votes so as to limit the number of parties in the Knesset to no more than a handful. As for replacement, such proposals have called for: (1) adoption of a constituency system similar to that of Great Britain; (2) institution of a combined proportional-constituency system; and (3) establishment of an electoral province system. In any event, any change in the existing proportional representation list system will require the vote of an absolute majority of Knesset members, not a simple majority of those present.¹⁷

Pros and Cons of Proportional List System

The existing proportional list system has the merit of accurately mirroring every shade of political opinion represented by parties in the country and of democratically permitting every party and doctrine to compete freely for the voters' support. The system, more than any other, ensures some representation for minority parties and theoretically demands votes for party and issues rather than for candidates.

Under the proportional list system, a party is encouraged to place the best possible people at the top of its list to attract country-wide support and to gain in stature if they are placed in the Knesset and emerge as national political leaders. Since there are no separate constituencies, each party may place before the entire electorate a slate of up to 120 candidates; and a small party with no large following in any one section of the country can accumulate enough votes throughout the nation to win a seat in the Knesset.

While proportional representation is a democratic system, it does not necessarily promote political stability and responsibility. It tends, on the contrary, to fragmentize the electorate, and to sharpen the competition of all parties for the votes of the same group of voters. Some of the smaller political parties which cannot win enough votes to form

¹⁷ Section 4, Basic Law (The Knesset), 5718-1958, *ibid.*, 85.

a Government are placed in favorable positions to bargain — sometimes even blackmail — the larger parties for special concessions in return for parliamentary support. Under the existing system, moreover, the individual citizen does not have a choice between definite candidates to represent his own local interests. Party lists of candidates are drawn up by the party organizations; and unless the individual voter is an enrolled party member who exercises his opinion and influence within the party organs, he cannot influence the composition of the lists of candidates. Once the list is made up, the individual voter has no further choice as to the candidates to be elected.

Consequently, a member of the Knesset owes his election to the party's central or executive committee, which places him high enough on the list to have won the seat. Lacking any direct contact with or responsibility for any specific group of voters in a geographic area of population, he looks to his party's top leaders for his guidance in legislating and for his future in politics. Another argument against the existing system has been that it perpetuates racial and national origin differences. Separate parties are formed along these lines, and the major parties deliberately place members of such communities on election lists for voter appeal.

Minimum Vote Percentage Reform

Proposals for such reform have included provisions for limiting the number of party election lists by raising the minimum percentage of the total valid votes required to win one seat in the Knesset. These have varied from 4 per cent, which would reduce the number of present parties to eight, to a percentage that would in effect eliminate all but the three largest parties. The smaller parties which have joined with Mapai to form the coalition Governments have done so on condition that the minimum percentage must not be so high as to exclude them from the Knesset. They have pointed out that the political history of democratic nations reveals that many of the now largest parties started out not long ago as small parties with a lower percentage of total votes than four.

Proposed Constituency System

A constituency system would divide the country into electoral districts, or constituencies; and candidates would run against each other to win the right to represent a specific district in the Knesset. Mapai, which would probably profit most under such a system, has continually advocated its adoption, and in the election of 1959 campaigned on this issue. Its aim is eventually to have a two-party system similar to that in the United States or in Great Britain, with a single party forming the Government and with the second party serving as the opposition but

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having prospects of becoming a majority and thus behaving responsibly.

Israel's political parties are generally controlled by highly centralized committees whose concentrated power is tightly secured under the present system of proportional representation. Since these inner councils draw up the lists of candidates and select their places on the election lists, they can make or break political careers. The constituency system might deconcentrate such power and distribute it, to a great degree, equitably among the numerous local constituency parties; and possibly it would provide stability, stimulate democratic competition, and help prevent perpetuation of an entrenched bureaucracy. The successful majority party might assume power with an apparently clear mandate from the electorate to carry out its program; and the opposition could exercise unified strength to help the Government on the right road. Another feature of a constituency system is that probably only two or possibly three parties can emerge as large entities, and their success depends on winning the votes of a considerable number of non-committed voters in order to gain a majority of votes in every electoral district. To win, a party must succeed in its appeal to many sections of the public; and such an appeal generally requires compromise rather than extremist programs.

A number of serious arguments were advanced against the adoption of a constituency system. It was maintained that, under such a system, a member of the Knesset would represent not only his supporters but also his opponents. This tends to temper his partisanship, whereas under the proportional list system the voter turns to the party he voted for rather than to the elected candidate whom he may never have seen and who feels no sense of obligation to him for his success. Furthermore, under the constituency system, the weaker of the two leading parties could poll 49.9 per cent of the votes in each of the country's constituency districts and yet not win one seat in the Knesset, while the stronger party with 50.1 per cent of the votes would win all of the parliamentary seats.

True, the proportional list system in Israel has not provided any single party with an absolute parliamentary majority to form a strong, stable Government, and consequently has necessitated the establishment of coalition Governments and promoted Cabinet crises. It is not necessarily true, on the other hand, that a constituency system would provide, along with the expected stability, a more democratic government. One can never fully guarantee similar results for different countries whose populations and problems are distinctly varied. A British-like constituency system in Israel might disrupt the nation's entire political life. Moreover, a constituency system does not in itself assure the running of the best candidates, whereas under the proportional list

system a party is under pressure to put the best possible candidates at the top of its list on a nation-wide basis. Some of the least capable candidates could be elected by heavily supporting constituencies while some of the most competent and needed people might be defeated if their own constituencies do not vote them into office.

It is further argued that for Israel's fast growing and changing — but not yet integrated — population, composed of people originating in a great number of countries with a variety of social backgrounds, it could be that a constituency system at this time might provide over-stability and leave no room for expression of community interests. Also, gerrymandering would be particularly simple, since new immigrants could be directed to districts where their votes could swing the balance for a given party; and, even in the absence of gerrymandering, districts cannot be made or kept equal in population. Until the population is stabilized, constituency elections would not necessarily break the party machines' power of choosing candidates, if even then. In line with this, it has been maintained, that a constituency system fosters "bossism," entrenches two or three established parties which make deals to perpetuate their existence and prevent new or minor parties from emerging and independent candidates from running, and denies representation to new ideas.

Proposed Combined Proportional-Districts System

This proposal provides for the division of the country into eighty electoral districts leaving the final number of Knesset members indeterminate. After a general election, eighty members would be seated in the Knesset who have received the greatest — not necessarily a majority — number of votes in any one district. All votes cast for lists whose candidates obtained first and second places in any one electoral district would be totaled, and the remaining seats in the Knesset would be allocated to the various lists according to an agreed overall ratio. Only such candidates who polled second place for their party would be eligible to be given seats, and their placement on the party list will be determined by the actual number of votes cast for them.

In this manner, whoever received the largest number of votes in a second place would head his party's list for additional allocations. The aim of this method is to eliminate the evils of both proportional representation and constituency district elections while preserving the merits of both systems. It would help create a personal tie between the Knesset member and the individual voter while at the same time enabling the medium-sized parties to win representation in Parliament. By placing a premium on popular, independent, and competent candidates, it also weakens the party's inner leadership in the nomination

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process and eliminates the partisan rewards of gerrymandering. On the other hand, under such a scheme, it would be possible for a minority party to win a majority of the seats.

Proposed Electoral Province System

It has been additionally proposed that the country be divided into from eight to twelve electoral provinces and elections would be held separately in each on the basis of proportional representation. Each province would elect eight to twelve delegates to the Knesset. Surplus votes would not be transferred from province to province. This method would eliminate small parties who received less than approximately 10 per cent of the votes cast in any one province and simultaneously provide some smaller interests, such as a group of collective settlements in a given geographical area, with parliamentary representation. From a broad viewpoint, such a scheme, however, might encourage provincial as against national loyalties.

Defeat of Electoral Reforms

Bills were introduced in the Knesset in 1951, 1953, 1954, and 1958 providing for changes of the existing electoral system. Other than one setting the minimum percentage of the total valid votes at 1 per cent, all were defeated. The proposals for replacing the proportional list system with a constituency system suffered the greatest parliamentary defeats. Only Mapai and the General Zionists supported the latter change, while the smaller parties, which would lose their independent existence if such a change were instituted, united to defeat the proposal. The smaller parties have argued, further, that to establish some form of a constituency system at a time when Israel does not have a system of checks and balances, a written constitution with a bill of rights, or a long parliamentary tradition, would give a majority party too much power.¹⁸



SUGGESTED READINGS

- Elections in Israel*. New York: Israel Office of Information, 1955.
Peretz, Don. "Reflections on Israel's Fourth Parliamentary Elections," *The Middle East Journal*, XIV (Winter, 1960), 15-27.
Society for Social Research in Israel. *Electoral Reform in Israel*. Tel Aviv: Beth Hillel Society for Social Research in Israel, 1953.

¹⁸ An interesting event regarding electoral reform occurred during the election campaign of Abba Eban on the Mapai Party list in 1959. He revealed that while talking to Jews of North African origin: "I looked at the mass of Moroccan faces and threw away the part of my speech dealing with electoral reform." *New York Post*, October 29, 1959, p. 2.

6

The Cabinet: The Government

The Constitutional Status of the Cabinet

The Cabinet, or, as "The Small Constitution" of February 16, 1949, described it, "The Government," is formed by the member of the Knesset who is actually the leader of the political party with the most seats in the Knesset. He is charged with the responsibility by the President after the latter has consulted with the leaders of all parties in the Knesset. Designated Prime Minister, he selects the various ministers either from among Knesset members or from persons outside.¹

When formed, the Cabinet must present itself promptly to the Knesset with the distribution of portfolios designated; and it is formally constituted when it has received Parliament's vote of confidence and each member has read and signed before the Knesset the required declaration of loyalty to the state and its laws and of compliance with decisions of the Knesset. Accountable to the Knesset, the Cabinet continues in office only as long as it retains parliamentary confidence. Resignation of the entire Cabinet is mandatory if it receives a vote of non-confidence, if the Prime Minister resigns, or when the results of a national election are officially announced in the Knesset. In each of these instances, or where the Cabinet decides by majority vote to resign, the resignation is tendered to the President. An outgoing Cabinet continues, however, to perform its duties until a new Cabinet is legally formed and confirmed.²

¹ Transition Law, 5709–1949, enacted February 16, 1949, *Laws of the State of Israel*, III (5709–1949), 3–4.

² Section 11, *ibid.*, 4, as amended by Section 1, Transition (Amendment No. 2) Law, 5712–1952, enacted June 24, 1952, *Laws of the State of Israel*,

There is no constitutional limitation on the number of ministries; the Cabinet might be of any size depending on the Knesset's approval. If the Cabinet decides to add any new portfolios, an announcement of this event must be made to the Knesset, and the additional ministers assume their functions upon approval of such announcement by Parliament and upon reading and signing before the Knesset the declaration of loyalty required of all ministers. The Government is required to keep Parliament informed also of Cabinet vacancies by reason of resignation or other cause, decisions as to changes in the distribution of portfolios among existing members, and the transfer of any or all of the powers vested by law in a minister to another minister. Parliamentary approval, however, need not be obtained in these instances.³

Each minister who heads a ministry is permitted, with the approval of the Knesset, to appoint from among members of the Knesset one or two deputy ministers for his ministry. The Government is required to notify the Knesset of such appointments and also when a deputy minister ceases to exercise his functions. Deputy ministers assume office upon this notification; and each must, by law, act both at the ministry and in the Knesset on behalf of the minister who appointed him and within the area of jurisdiction and scope of authority granted to him by that minister. Appointment of deputy ministers does not affect the responsibility of the appointing minister for the activities and operations of his ministry or his share in the joint responsibility of the Government.⁴

These principles governing the constitutional status of the Cabinet in Israel were developed between 1949 and 1952. The Transition Law of 1949 had sketchily defined the various organs of government. It had failed to outline the procedures for handling a Cabinet crisis, to indicate what the effect of a Prime Minister's resignation would be on the entire Cabinet, and to provide the essential details of many Cabinet-Knesset relationships, particularly, whether the latter's approval or

VI (5712-1951/52), 73: "Within seven days of the date on which the Government obtains such a vote of confidence, the Prime Minister and the Ministers shall read and sign before the Knesset the following declaration: 'I, (name), as a member of the Government, pledge myself to be loyal to the State of Israel and to its laws, and to comply with the decisions of the Knesset.'"

³ Sections 11-12, Transition Law, 5709-1949, *ibid.*, 4, as amended by Section 1 of Transition (Amendment No. 3) Law, 5712-1952, enacted August 12, 1952, *Laws of the State of Israel*, VI, *ibid.*, 87.

⁴ Section 11, Transition Law, 5709-1949, *ibid.*, 4, as amended by Transition (Amendment) Law, 5711-1951, enacted February 7, 1951, *Laws of the State of Israel*, V (5711-1950/51), 48-49, and Transition (Amendment) Law, 5716-1956, enacted May 29, 1956, *Laws of the State of Israel*, X (5716-1955/56), 68.

notification was required in the case of a redistribution of existing portfolios among ministers already members of the Cabinet, or in the case of an appointment of a new minister to fill a vacancy, or in the case of additions to or eliminations of portfolios. It failed, also, to provide for the appointment of deputy ministers and to define their scope of authority and responsibility. A series of amendments in 1951 and 1952 filled these gaps, but not before severe political crises befell several Cabinets because of such deficiencies.

Comparison with the British System

Israel's Cabinet system resembles that of Britain in many respects. As in Britain, the Cabinet is charged with supreme executive control. Whereas British Cabinet ministers must be members of either House of Parliament, an Israeli Cabinet minister, including the Prime Minister, need not be a member of the Knesset. In both Britain and Israel, the individual ministers control their assigned departments, while collectively they formulate the policies of the Government on all major domestic and foreign affairs and are responsible for its actions.

Since the Cabinet is essentially a link joining the executive and legislative functions of a state, the doctrine of the separation of powers has little or no part in Israel's system. The Cabinet is constitutionally responsible to the Knesset and can be forced to resign by an adverse vote on a major issue or by a vote of censure or non-confidence. Realistically, however, the authority of the Prime Minister to resign, an event which automatically causes the fall of the entire Cabinet, gives him power to play a strong role in the Knesset as well. Unlike the British Prime Minister, the Prime Minister of Israel cannot advise the head of state to dissolve Parliament, thereby necessitating a new national election which is costly and whose outcome is uncertain. Not only does the Israeli head of state — the President — lack such a power of dissolution, but the fall of a Cabinet in Israel does not automatically bring about a national election. When a Cabinet falls, the President consults with the leaders of all parties represented in the Knesset and then invites the leader of one of these parties to attempt to form a new Cabinet, which must be presented to Parliament for approval.

Like the British Prime Minister, Israel's Premier is the head of the Government and is its directing and motive force. He controls the agenda of business to be dealt with at Cabinet meetings, coordinates governmental policies and Cabinet committee activities, directs the development and execution of the Government's legislative program, sets the principles for the conduct of the country's foreign affairs

and management of the domestic economy, and supervises the Government Secretariat. Yet, the Israeli Prime Minister does not possess the full degree of power which his British counterpart has to nominate or ask for the resignation of any or all of his ministers. Again, this is the result of the multi-party coalitions and the inevitable compromises required to form a Cabinet in Israel. Nevertheless, the Israeli Prime Minister can cause the resignation of his entire Cabinet by simply tendering his own resignation to the President.

While the Cabinet in Israel is the dominant organ of government, it is not as powerful and strongly rooted as is the British Cabinet. Although the element of infancy as a state may be a factor, it appears that the primary reason for this lack of full-fledged Cabinet government in Israel is the inability of any one party to win more than half of the seats in the Knesset in the national elections. As a result, all Israeli Governments have been coalitions which have been weakened by hard-bargained compromise agreements and which have led precarious existences, falling—in contrast to British Cabinets—easily before the Knesset's vote of censure or non-confidence. Probably the most significant point of contrast, in this connection, is that in Britain the parliamentary leaders of the party having a majority normally comprise the Cabinet, while in Israel no party has ever won a majority to form a Cabinet entirely of its own party ministers and wholly on its own terms and programs.

The powers of the British and Israeli Cabinets are great. Both prepare the legislative program of government and initiate legislation in the Knesset, conduct foreign affairs, formulate the budget and control the finances and the economy, determine military policy, and supervise and coordinate the administrative departments in the execution of parliamentary legislation and administrative regulation. Israeli Cabinets have not been as large as Britain's, although recent British Governments have gotten away from the former twenty to twenty-two portfolio regimes. Israel's Cabinets have ranged between twelve and sixteen members. Unlike the British system, in which there are ministers who are outside the Cabinet, all of the ministers in Israel are within the Cabinet and possess Cabinet rank.

Much, if not most, of the work of Israeli Cabinets is done through ministerial committees. In fact, similar to the British Cabinet, the Israeli Cabinet is increasingly becoming an organ which discusses, reviews, approves, amends, or rejects recommendations of these ministerial committees. How these committees function, the nature of their activities, and their recommendations to the Cabinets on major issues have been little publicized and, in the main, have been kept confidential. The Cabinet secretariat, as in Britain, is an important organ affecting

the development of policy. It is responsible for providing information and advice to the ministers, for preparing the minutes of Cabinet and ministerial committee meetings, and promulgating decisions of the Cabinet or Prime Minister to the departments, and for issuing to the public, as directed by the Cabinet, statements of policies and programs and reports on the actions and decisions of the Governments and the ministries.

Cabinet Decisions and Collective Responsibility

Cabinet meetings are held regularly once a week and are convened also on special call of the Prime Minister, who presides over them. Decisions are made by simple majority vote. Each member, including the Prime Minister, has one vote. Once a majority vote is cast, each member of the Cabinet is committed to the support of the decision. If a Cabinet member desires to speak in the Knesset against a decision or proposal of the Cabinet, or abstain from voting on it, he must first be authorized to do so by a majority vote of the Cabinet. On matters involving the confidence of the Knesset in the Cabinet, however, a minister is obliged to resign before the Knesset vote is taken, if he wants to oppose the Government or abstain from voting. This is the principle of collective responsibility, which has been the source of much controversy and strife in Israeli Cabinets.

The only constitutional reference which may be said to hint at this principle is Section 11. (f) of the Transition Law of 1949, as amended, which states that "The Government shall be jointly responsible for its activities to the Knesset." What "jointly responsible" means, insofar as voting in the Knesset is concerned, cannot be deduced from the text itself. However, Ben-Gurion, as Prime Minister, has defined the principle in the platform agreements forming the various coalitions to mean specifically that no member of the Cabinet may independently oppose, or refrain from supporting, a policy decision or proposal of the Cabinet without first obtaining approval of the Cabinet. The primary purpose of this principle is to ensure full support and defense of the Prime Minister and Cabinet by the ministers of the coalition parties during debates, question time, and votes of confidence in the Knesset on Cabinet policies, decisions, and proposals. How far the principle can be made to apply to non-ministerial members of the coalition parties in Knesset proceedings not involving votes of confidence is still not fully defined.

The principle of collective responsibility is not original in Israel. It has long been a prime feature of the British and other European systems of cabinet government. In Israel, however, because of the

multiplicity of political parties, the intense partisanship of party members for their causes, and the failure of any one party to win a majority of seats in the Knesset, collective responsibility has been difficult to obtain by Mapai from its coalition partners. While Mapai has appealed to other parties in the coalition alliances to adhere to the principle in the interest of stable government at a time when the security of the state is endangered by hostile neighboring Arab countries, the smaller parties in the coalitions have frequently balked, on the ground that it has compromised their individual programs and alienated their followers.

This failure of the Transition Law of 1949 to spell out the details of "joint responsibility" is further matched by its failure to require Cabinet ministers to observe the decisions of the Cabinet in the same manner as it required the ministers to take an oath to "observe the decisions of the Knesset." Had the oath included the latter provision, many bitter Cabinet battles and one major crisis could have been avoided, and, in addition, the Governments' capacity to act effectively, unitedly, and swiftly would have been enhanced.

The importance of the principle of collective responsibility is best indicated by the fact that it has been incorporated at the outset of each Government's statement of program presented to the Knesset at the same time as the Prime Minister has introduced his new Cabinet for confirmation. The Knesset could either approve or reject both the Cabinet and its program simultaneously. For example, the Government's program presented to the Knesset on October 7, 1951, and approved the next day, provided:

The Government will be based on the principle of collective responsibility, to which all members of the Cabinet and the parties which they represent will adhere. The principle of collective Cabinet responsibility will apply to the agreed program of the Government as well as to subsequent Cabinet decisions.⁵

In approving the program of the Government, the Knesset has usually acknowledged the principle of collective responsibility of Cabinet members, but has asserted that members of Parliament would enjoy complete freedom to question and criticize ministers and to debate Cabinet policy even if such Knesset members were of the same party or parties in the Cabinet.

Division of Executive and Legislative Authority

As in all parliamentary systems, the Israeli Cabinet not only initiates

⁵ David Ben-Gurion, *Israel: A Program for Progress* (New York: Israel Office of Information, 1951), p. 3.

bills but also executes legislation. The Transition Law of 1949 required that all laws passed by the Knesset be signed by the Prime Minister and also by the appropriate minister or ministers charged with implementing the particular laws.⁶ Accordingly, execution of legislation is almost completely the responsibility of the Cabinet. There are several exceptions to this general rule. One is the statutory assignment of executive functions of supervising governmental finances and their management to the State Comptroller who, similar to the Comptroller General of the United States, is an agent of the legislature and is independent of the executive authority. Another exception is the assignment of responsibility to the Speaker of the Knesset for the execution of all laws directly concerned with Parliament. A third exception is the assignment of executive functions to judges for supervising the conduct of national elections and also for carrying out the rules for the administration of courts formulated by the Minister of Justice.

While the dividing line between executive and legislative functions is generally clear, there have been times when members of the Knesset have attempted to achieve by means of legislation what the Cabinet has refused to do by means of administrative action. Similarly, there have been occasions when the Cabinet has promulgated administrative regulations to accomplish what it wanted to avoid doing by legislative means. In 1955, for example, bills were introduced into the Knesset designed to change the name of a village settlement and to annex an immigrant transitory camp area to an adjacent municipality. Neither of these bills became law. A primary reason for the failure of their enactment was that such matters as the naming of settlements and the territorial jurisdiction of a municipality are reserved to the executive authority of the Minister of the Interior. To illustrate further, in 1954, when the Cabinet wished to avoid instituting a permanent nation-wide ban on the breeding of pigs, it refused to initiate legislation to this effect and, instead, promulgated administrative regulations permitting each locality to decide for itself what action it would take on the matter.

In such cases, the dividing line between legislative and executive authority has been relatively clear. There are areas, though, in which the line is blurred or invisible—for example, the fixing of salaries for public officers and employees. Here there is a sharing of authority by the Cabinet and the Knesset. Originally, the Cabinet had exclusive authority to fix such salaries. However, over the years, a division of jurisdiction has been developed by a series of laws. The Knesset is now responsible for fixing the salaries of the President, Prime Minister and Cabinet members, all judges, State Comptroller, and members of the Knesset, while the Cabinet fixes the re-

⁶ Section 2, Transition Law, 5709-1949, *ibid.*, 3.

muneration of all other public officers and employees. In connection with the fixing of retirement pensions for public officers and employees, the Knesset now has exclusive authority, with no exceptions, although originally this area, too, had been divided.

The Prime Minister and the Ministers

The Prime Minister and the ministers together form the Cabinet, or Government. Keystone of the governmental structure, the Prime Minister convenes and presides over meetings of the Cabinet, shapes its legislative program, develops the basic outlines of domestic and foreign policies, coordinates the activities of the ministers and their administrative departments and agencies, and formulates the principles of military defense. He is chief executive and chief administrator; and as head of the Government, he keeps the President, who is head of state, informed on all major issues and situations involving either domestic or foreign policy.

Although the Transition Law of 1949 does not require that the person designated by the President to be Prime Minister and form a Government be a member of the Knesset, in practice he is the leader of the major political party and stands at the top of the party's list of candidates who run for seats in the Knesset. As such, the Prime Minister is the dominant party's leader in both the Knesset and the Government. The assignment of duties and responsibilities to the Prime Minister and other members of the Government is accomplished legislatively by enactments of the Knesset and administratively by Cabinet orders and regulations. Generally, the pattern of functions follows that of the British system; but because of the unique nature of many of Israel's problems, especially those involving immigration and absorption, finances and security, there have been some highly individualistic designations of portfolios and assignments of functions.

The Government has exclusive power over its organizational structure, procedures, methods of work, and conduct of business.⁷ While the Knesset by legislation assigns duties and responsibilities to Cabinet ministers, it may not dictate the manner of their performance. Nevertheless, by its powers of questioning and investigating into activities for which the Government is directly or indirectly responsible, the Knesset can exercise a degree of control and influence over the Cabinet. This control extends even to those activities brought into existence by administrative regulations promulgated by the full Cabinet or individual ministers heading departments.

Constitutionally, the Prime Minister has the power himself to dis-

⁷ Section 2. (f), Law and Administrative Ordinance No. 1, 5708-1948, *Laws of the State of Israel*, I (5708-1948), 8.

solve a Government by resigning, but does not have the authority, acting either by himself or with other officials or organs of government, to dissolve the Knesset whether by resignation or any other method. The ability to cause the fall of the Government by resigning is a source of great power to the Prime Minister, especially since, in Israel's experience, there has been no effective alliance of the political parties constituting the opposition in the Knesset. In fact, it is this inability of the opposition to form a working bloc that has facilitated the functioning of the nine coalition Governments which Israel has had since "The Small Constitution" was enacted in 1949.

The two persons who have thus far served as Prime Ministers are David Ben-Gurion and Moshe Sharett. Each has been a member of Mapai, the leading party, and was forced to form Governments in coalition with at least two other parties; and each has followed the general strategy of first compromising party principles and programs only as far as he felt he had to and then risking his political future either by resigning, thereby causing the fall of the Government, or by forcing or allowing a recalcitrant minority party to leave the Cabinet.

Because of the many political parties represented in the Knesset and in the Cabinets, Israel's Prime Minister has less power over a less disciplined Cabinet and Parliament than his English counterpart. Similarly, in his administrative role, the Israeli Premier directs a much less developed civil service than does the British Prime Minister. The dominant role of the Cabinet in legislation places a heavy burden on the ministers, for each minister is concerned with legislative policy regarding not only his own department but also every other department. As members of the Government, they each have one vote in decisions by the Cabinet on legislative proposals affecting any or all departments. Since Israel's Governments have all been coalitions of many competing parties, each minister has generally sensed the need to safeguard his party's interests when proposals are made by ministers who are members of parties other than his own. Party suspicion and conflict in Cabinet discussions and in ministerial committee activity characterize many of the attitudes and responses of ministers.

Just as the Prime Minister constitutionally need not be a member of the Knesset to serve in that capacity, neither are the other ministers required to be members of the Knesset in order to be appointed to the Cabinet. Thus far, the Prime Ministers have been, at the same time, members of Parliament; and, except in fewer than a handful of cases, all of the ministers have been simultaneously Knesset members. When Cabinet ministers are not members of the Knesset, they enjoy full ministerial rank but may not vote in the Knesset, whereas the others serve in the dual role of Government executive and Knesset legislator.

The Government is authorized to confer any of its powers on the

Prime Minister or any other minister,⁸ and also to transfer any and all powers conferred on a minister by law to another minister.⁹ Those ministers who are heads of departments have the added responsibility of promulgating and enforcing administrative regulations. Each minister is entitled to appoint one or two deputy ministers from among the members of the Knesset to assist and represent him. Interestingly, ministers need not be members of the Knesset to be appointed to the Cabinet, but deputy ministers must be in order to serve as such. The purpose of having deputy ministers has been to attract or appease coalition parties and to cement coalition agreements. Whereas one sufficed from 1951 to 1956, it became politically expedient to increase the number to two by the latter date.¹⁰

A minister may resign from the Government at will, but his resignation does not become effective until the Prime Minister makes a formal announcement of the matter to the Knesset. Neither the President nor the Knesset may compel the Prime Minister to make this formal announcement, nor cause a debate to take place in the Knesset on the subject. This gives the Prime Minister added tactical power, and also enables the minister to return to the Cabinet if personal or political difficulties are involved which can be solved in the meantime. While, theoretically, the Prime Minister need not make the formal announcement if he does not wish to do so; practically he would not defer the announcement indefinitely; for, to do so might cause or aggravate a crisis and could deprive the Government of a key official in a period when Israel's security is in danger.

Portfolios

There is no statutory limit to the number of ministers. Each Cabinet decides for itself the number of its ministers. The smallest has been twelve, and the largest, seventeen, while the majority has been sixteen. Neither is there any restriction on the number of portfolios that a Prime Minister or other minister may hold simultaneously. Prime Minister Ben-Gurion has held also the portfolio of Minister of Defense in each of his seven Cabinets. Similarly, Prime Minister Moshe Sharett served also as Minister of Foreign Affairs in his two Cabinets. There have been occasions when a coalition party resigned from the Government, whereupon Prime Minister Ben-Gurion assumed one or two of the vacant portfolios himself and distributed the others to some of the remaining ministers.

Changes in portfolios have occurred not only because of personal

⁸ Section 2. (d), *ibid.*, 7.

⁹ Section 12A., Transition Law, 5709-1949, as amended August 12, 1952, *Laws of the State of Israel*, VI, *ibid.*, 87.

¹⁰ Transition (Amendment) Law, 5716-1956, *ibid.*, 68.

reward and accommodation and of political patronage, but also to suit changing times and needs. At the beginning of statehood, for example, when masses of immigrants had come in from former Nazi-occupied lands, there was a Ministry for War Sufferers; but as time progressed, this portfolio was abolished. Likewise, there was, in the early period, a Ministry of Minorities, which dealt primarily with internal Arab affairs. In time, the Government decided that Arab citizens of Israel should not be treated as a separate populace by a distinct ministry, and reliance should be placed on the Arab members of the Knesset to take up complaints. Accordingly, this portfolio was abolished. When the problem sharply arose of developing the country to absorb the hundreds of thousands of immigrants, a Ministry of Development was created; and when the issue of training these newcomers for citizenship arose, the Government established a *de facto* Ministry of Information which did not receive legal status, however, from the Knesset.

In Israel, the police function is assigned to a Ministry of Police, whereas in England and in most other European parliamentary systems, the function is under the Ministry of the Interior. The reason was personal in that it was specially given to the person who held the portfolio in eight Governments, Behor Shalom Shitrit, a leader of the Sephardic community. Whatever portfolios it has been willing or forced to yield in concessions to coalition parties, Mapai has made certain to retain, in the Provisional Cabinet and the nine constitutional Governments, the key portfolios of Defense, Finance, and Foreign Affairs.

A typical Israeli Cabinet's portfolios are listed below:

The Israeli Cabinet
(as of January 7, 1958)

Prime Minister and Minister of	Minister of Health and Posts
Defense	Minister of the Interior
Minister of Agriculture	Minister of Justice
Minister of Commerce and	Minister of Labor
Industry	Minister of Police
Minister of Development	Minister of Religious Affairs
Minister of Education	Minister of Transport and
Minister of Finance	Communications
Minister of Foreign Affairs	Minister Without Portfolio

Ministerial Committees

The Cabinet meets normally once a week in regular session and, in addition, is convened in extraordinary session by the Prime Minister when matters arise requiring emergency action. Its proceedings are confidential, but the Secretary to the Government in the Office of the

Prime Minister issues a statement to the press and radio after each meeting. The major part of the Cabinet's work is accomplished by four permanent ministerial committees — Committee on Economic Affairs, Committee on Foreign Affairs and Security, Committee on Home Affairs and Services, and Committee on Legislation. These Committees exercise full powers in the matters assigned to them, but are subject to the direction and supervision of the Cabinet as a whole, both on initiative of the Cabinet itself and on the right of individual Committee members to bring issues and questions before the full Cabinet.

All four Committees meet regularly once a week. Each minister is assigned to one or more of the Committees, depending on the nature and related interest of his portfolio. Thus, the Committee on Foreign Affairs and Security consists always of at least the Ministers of Foreign Affairs and Defense; the Committee on Home Affairs and Services includes the Ministers of Education and Culture, Health, the Interior, Religious Affairs, and Social Welfare; the Committee on Legislation has the Minister of Justice; and the Committee on Economic Affairs consists of the Ministers of Finance, Agriculture, Commerce and Industry, Communications, Development, and Labor. All bills prepared by the Committees for full Cabinet consideration and then presentation to the Knesset are drafted by the Committee on Legislation.¹¹ The Prime Minister is not assigned to any of the Committees but frequently sits at their meetings. When he attends such meetings he automatically serves as chairman.

Intended to ease the heavy workload of the Cabinet, the four ministerial Committees have developed heavy workloads of their own. So great have these workloads become that when urgent problems arise, instead of employing any one or a combination of these Committees, special temporary committees are created by the Prime Minister with the approval of the Cabinet itself, especially committees of inquiry to look into specific events of terrorism, riots, threats to the security of the state, violations of military policy, and questions threatening coalition unity. Many of the special committees have been headed by the Prime Minister. All are instructed to make their reports to the full Cabinet within a definite period of time.

Ministers Without Senior Administrators

The ministers have been hard pressed to attend one ministerial committee meeting after another. They have been unable or unwilling to

¹¹ For the purposes of formulating policy, especially economic, Prime Minister Ben-Gurion established an inter-party "Coalition Executive" in 1955, consisting of Cabinet ministers and Knesset members of the coalition parties in the Government.

delegate any considerable amount of authority to subordinates. This is somewhat understandable with regard to the deputy ministers, for these positions have been allocated on the basis of coalition bargaining rather than for acquiring administrators to relieve the workload of the ministers. In fact, it is far from uncommon for a minister of one party to have one or two deputy ministers from another party or two other parties. Surrounded by a yet relatively immature administrative organization, ministers have little shielding against partisan politics. To add to their burden, far too much business of a routine nature which should be handled fully within the individual ministries is brought before the Cabinet.

The lack of experienced senior administrators to whom the ministers could delegate administrative authority is sometimes overshadowed by the inclusion of coalition party ministers with diametrically opposite economic principles and administrative concepts. In the Government of 1954–1955, for example, which was headed by Premier Moshe Sharett, the Mapai Minister of Finance advocated tight governmental controls over foreign currency; whereas the General Zionist Minister of Commerce and Industry urged the elimination of these and other governmental controls. While the coalition prevailed and the conflict was not permitted to emerge at the Cabinet level, the two ministers each went his own way, disregarding the need for uniformity and coordination at the departmental level in administering the overall program, with the result that confusion and inefficiency characterized such important economic activity as the issuance of import licenses.

Restrictions on Ministers

Ministers and deputy ministers may not use their official position and title in conducting their private business or profession. After leaving office, they are forbidden to make written reference to their former Cabinet association in carrying on private business. For three years after he has left office, a former minister or deputy minister is prohibited from serving as a director of any concern which received a governmental contract or concession during his tenure. Violations of these conflict of interest provisions of the law are punishable by two years in prison and a fine of 3,000 Israeli pounds (\$1,660).¹²

Both ministers and deputy ministers are prohibited from serving on the Central Election Committee which conducts the country's national elections.¹³ The Prime Minister and all other Cabinet members are required to live in Jerusalem, the nation's Capital, in accordance with

¹² Sections 14–15, Knesset Members (Immunity, Rights, and Duties) Law, 5711–1951, enacted June 25, 1951, *Laws of the State of Israel*, V, *ibid.*, 152.

¹³ Section 10, Knesset Elections Laws, 5715–1955, passed January 24, 1955, *Laws of the State of Israel*, IX (5715–1954/55), 19.

a decision made on June 28, 1953, by the Government that its offices would be moved from Tel Aviv to Jerusalem. In the summer of 1956, members of the Government were requested by Prime Minister Ben-Gurion to change their names to Hebraic form.¹⁴ The Ministers complied. Golda Myerson, then Minister of Foreign Affairs, for example, changed her last name to Meir.

The Office of the Prime Minister

As chief executive and chief administrator, the Prime Minister requires a staff of technical advisers and coordinators to assist him in governmental administration. The Office of the Prime Minister was created for this purpose. It consists of: the Government Secretariat; Bureau of the Prime Minister; a variety of advisers; and a number of agencies hardly related to the functions of this Office, such as the Israel Broadcasting Service, Civil Service Commission, Central Bureau of Statistics, Government Tourist Corporation, State Archives, and several other similar bureaus. The total number of personnel employed in the Office of the Prime Minister was 1,105 as of March 31, 1958.¹⁵

Patterned after Britain's parliamentary undersecretaries, Israel's Government Secretariat prepares the agenda for Cabinet meetings, coordinates the work of the various ministers and their departments, explains Cabinet and departmental policy to the Knesset and the public, prepares Cabinet statements and reports, maintains the Cabinet's records, prepares the material required for the meetings of the ministerial committees and coordinates these committees, helps develop standards for efficient administration, and reports to the President on the activities of the Government. The Bureau of the Prime Minister deals with those matters which are the personal responsibility of the Prime Minister. It includes a special staff of confidential secretaries, including a military adviser. Also advising the Prime Minister in specialized areas are an Adviser on Arab Affairs, an Adviser on Public Affairs, and a Legal Adviser.

While many of the activities listed rightfully belong in the Office of the Prime Minister, some have been assigned to it apparently because

¹⁴ *New York Times*, July 26, 1956, p. 2. As Minister of Defense, Premier Ben-Gurion issued orders the same year forbidding any Israeli army officer from representing the nation abroad unless he had a Hebrew name. The order was issued after an officer, named Vishnevsky, commanding an Israeli warship on a goodwill mission to South Africa, caused many South African Jews to feel regret and shame over the Slavic name of the ship's commander, especially when the Soviet Union was siding with the Arab nations against Israel.

¹⁵ *Israel Government Year Book 5719 (1958)* (Jerusalem: The Government Printer, 1958), p. 33.

they could not appropriately be placed in the existing departments. The Office of the Prime Minister, its component administrative sections and agencies, and the Cabinet committees are discussed in detail in a later chapter on "Governmental Administration."

Israel's Nine Constitutional Governments, 1949-1960

In its twelve years of existence as a state, Israel has had nine constitutional Governments. The Provisional Government is not included among these, since it preceded the Transition Law of 1949. Each was formed by the Mapai Party as the basic political entity in coalition with several other parties, but never with either the extreme rightist Herut Party or the extreme leftist Communist Party. In seven of these Governments, Ben-Gurion was Prime Minister; and, in two, Moshe Sharett. Such long periods in which one party has played the decisive role in the formulation of coalition Cabinets are not unique. The German Federal Republic has been run, since 1949, by coalition Governments in which one party, the Christian Democrats, has been the basic partner. In Sweden there have been coalition Governments since 1932 in which one party, the Social Democrats, has been the central entity. Neither example is fully comparable to the Israeli scene, however; for Israel's coalition Governments have generally consisted of four or five parties, whereas the German and Swedish coalitions have been composed of two.

Coalition Cabinets are neither authorized nor prohibited by law. They are accepted in Israel, in line with Western European custom and precedent, as inevitable in a parliamentary system based on proportional representation in which none of the many competing parties is able to win a majority of seats in the Knesset. The leading party, Mapai, has never won sixty-one or more seats. Unable to form a Cabinet wholly of its own members and on its own terms, Mapai has been forced to make concessions in matters of policy and patronage in order to win to its side one or more other parties which would provide sufficient voting strength in the Knesset to win for the coalition Cabinet a vote of confirmation and to carry through a legislative program for the nation.

The smaller parties, sought by Mapai for coalition, have sensed their strategic bargaining positions and have naturally made heavier demands than Mapai has been willing to concede. The result, expectedly, has been compromise. This continual dependence of Mapai on coalitions since the formation of the state has been a source of national weakness and friction, in general; and for Mapai, in particular, it

Israel's Nine Governments, 1949–1960

<i>Gov. & Duration</i>	<i>Coalition Parties and Seats</i>	<i>Cause of Termination</i>
First Government March 10, 1949 to November 1, 1950	Mapai — 46 United Religious Front — 16 Progressives — 5 Sephardim — 4 Arab Democratic List — 2 TOTAL: 73 seats	Resignation of Prime Minister Ben-Gurion on October 15, 1950, over the rejection by the United Religious Front of his proposal to add a separate Ministry of Commerce and Industry for occupation by a person other than a member of the Knesset or of a political party.
Second Government November 1, 1950 to October 8, 1951	Same as above	Prime Minister Ben-Gurion's tendering of the resignation of his Cabinet on February 17, 1951, without consulting his colleagues, over the failure of the United Religious Front to support the Government on a bill censuring the Government for its handling of the immigrant religious education issue.
Third Government October 8, 1951 to December 23, 1952	Mapai — 45 Hapoel Ha-Mizrachi — 8 Mizrachi — 2 Agudat Israel — 3 Poalei Agudat Israel — 2 TOTAL: 60 seats	Resignation of Prime Minister Ben-Gurion on December 19, 1952, over the withdrawal of Agudat Israel and Poalei Agudat Israel from the Government in opposition to the conscription of women into the military service and unification of the four-trend educational system.
Fourth Government December 23, 1952 to January 26, 1954	Mapai — 45 General Zionists — 20 Hapoel Ha-Mizrachi — 8 Progressives — 4, Mizrachi — 2 Sephardim — 2, Yemenites — 1 TOTAL: 82 seats	Resignation of Ben-Gurion as Prime Minister on December 7, 1953, because of ill health.
Fifth Government January 26, 1954 to June 29, 1955	Same as above	Resignation of Prime Minister Moshe Sharrett on June 29, 1955, because of General Zionists' abstentions in Knesset votes on motions of non-confidence in the Government over the Dr. Israel Kastner case, which involved the charge of collaboration with the Nazis by the Mapai leader while serving as head of the Jewish Rescue Committee in Nazi-occupied Hungary.

Sixth Government
June 29, 1955
to
November 3, 1955

Mapai — 45
Hapoel Ha-Mizrachi — 8
Progressives — 4
Mizrachi — 2
TOTAL: 59 seats*

Expiration of Knesset's normal term.

Seventh Government
November 3, 1955
to
January 7, 1958

Mapai — 40
National Religious Party — 11
Achdut Ha'Avodah — 10
Mapam — 9
Progressives — 5
TOTAL: 75 seats

Resignation of Prime Minister Ben-Gurion on December 31, 1957, after Achdut Ha'Avodah and Mapam refused to accept the principle of collective Cabinet responsibility over the issue of political and military ties with West Germany.

Eighth Government
January 7, 1958
to
December 17, 1959

Same as above

Resignation of Prime Minister Ben-Gurion on July 5, 1959, because of votes by Achdut Ha'Avodah and Mapam in the Knesset against the Government's motion to sell arms to West Germany in violation of the coalition agreement on collective Cabinet responsibility.

Ninth Government
December 17, 1959
to
Present

Mapai — 47
National Religious Party — 12
Mapam — 9
Achdut Ha'Avodah — 7
Progressives — 6
Poalei Agudat Israel — 3
TOTAL: 84 seats

Resignation of Prime Minister Ben-Gurion on January 31, 1961, over the exoneration of Pinhas Lavon by the Cabinet for a mishandled security operation into Egyptian territory in 1954.

has led to a watering down of its socialistic programs and to politically curious alliances with ultra-conservative, orthodox religious, and capitalistic parties. Mapai has been happier to have the National Religious Party in Cabinets than the General Zionists. In fact, the best coalition ally of non-religious Mapai has been the National Religious Party. Yet, the capitalistic General Zionists extracted the greatest concessions for entering a Government. Although it would be possible to form a new Government without the religious parties, Mapai's reliance on the National Religious Party as its main partner will probably not change for many years. At all times, however, Mapai has avoided forming Governments with either the Communists or Herut as members.

Formation of a Government

The first step in the formation of a new Cabinet is taken by the President. He calls individually the leaders of the political parties represented in the Knesset for consultation; they are invited in the order of their importance in the Knesset. After this consultation is completed, the President requests the head of the leading party to form a Government. If the latter's party has won sixty-one or more seats in the Knesset, he can form a Cabinet consisting wholly of members of his own party and formulate a program on his party's own terms. If his party lacks the required majority of seats in the Knesset, he must solicit the support of one or more other parties so as to command in coalition a majority of the Knesset votes.

The next step is to formulate a program, known formally as "Fundamental Principles," which outlines the proposed Government's platform. Following this, the heads of the parties meet and allocate the Cabinet portfolios among the coalition members. The final stage is the selection of the specific persons who will hold the designated portfolios. In theory, the Prime Minister decides who will hold the portfolios; but in practice, this step, too, has been an inter-party procedure with the individual coalition parties having a considerable voice in determining who will represent them in the Cabinet. When the portfolios have been assigned, the Prime Minister informs the President of the completion of his task and announces to the Knesset his readiness to present formally the proposed Government and its program for a vote of confirmation by the Knesset. When the Knesset approves, the new Government takes office.

Coalition Bargaining

Bargaining among prospective party partners for forming a coalition Cabinet is constitutionally neither sanctioned nor prohibited, nor

limited in duration. It is an accepted phenomenon not only by reason of Western European practice, but also because of the deep penetration and wide influence of political parties in Israeli society. The nature and scope of the bargaining reflect this importance of the parties. Often long, devious, and brazen, coalition bargaining has given the process of forming a Cabinet a color of unprincipled political behavior. Its range is unlimited, encompassing the assignments of ministerial portfolios and changes in their functions, appointments as deputy ministers, initiation or withholding of legislative bills, promulgation or cancellation of administrative regulations, allocation of Knesset committee chairmanships, and even executive positions in local government.

Because of coalition bargaining, the formation of new Governments has been generally delayed, often for such lengthy intervals as six weeks to two months. This could probably be avoided if Mapai and one other leading party would form the coalitions. The inability to do so has placed the smaller parties in strategic bargaining positions, but has made it difficult to constitute new Governments quickly. That the length of time consumed in coalition bargaining is out of all proportion to the terms of office of the Governments once constituted is not viewed by the majority of parties as detrimental either to the country's political life or to their individual interests. To Mapai and to many impartial political observers the practice has lessened the prestige of the State of Israel. With regard to Mapai's objection, it would naturally be advantageous to eliminate some of the competing smaller parties by legislation limiting representation in the Knesset to those parties polling at least a substantial minimum percentage of votes in national elections. Thus far, the smaller parties have agreed to enter coalition Governments with Mapai on condition that such a move would not be made; and Mapai, still needing the smaller parties, has been forced to concede and bide its time.

Cabinet Crises and Resignations

The terms of Israel's nine Governments have ranged from four months to two years and two months. None completed the maximum statutory tenure of four years, and none was without bitter political strife. If any one word characterizes their tenure it is "crisis," yet never "chaos." This is an inevitable result of multiparty coalition Government in a parliamentary system based on proportional representation and lacking a strict and effective collective responsibility on the part of the Cabinet ministers and also of their party members in the Knesset.

In the period 1949 to 1960, more than a score of Cabinet crises arose over political, economic, and religious issues. Not all these issues

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forced Governments to topple. In fact, the fall of Israeli Cabinets generally has been produced, not by votes of non-confidence, but by the resignations of Prime Ministers — seven times by Ben-Gurion and once by Sharett. The issues provoking these resignations, other than constitutional termination of office following a national election, were: (1) a proposal to add a separate Ministry of Commerce and Industry to be occupied by a non-member either of the Knesset or of a political party; (2) violation of the principle of collective responsibility by the religious parties in a coalition Cabinet in opposing military service for women and unification of the four-trend system of education and in failing to support the Government in the Knesset vote; (3) violation of collective responsibility by a coalition Cabinet party in abstaining during a Knesset vote of non-confidence involving an accusation against Dr. Israel Kastner, a Mapai leader, of having made deals with Nazi Col. Adolf Eichmann; (4) violation of collective responsibility and of Cabinet secrecy — two principles closely linked — by a Government party leaking a Cabinet's decision to send a secret mission to the German Federal Republic for negotiating military ties and for seeking support in obtaining a North Atlantic Treaty Organization commitment to guarantee Israel's security; (5) religious opposition to a Cabinet's definition of who is a Jew with respect to identity card entry regarding nationality; (6) violation of collective responsibility by a Government party in connection with the sale of Israeli-made arms to the German Federal Republic; and (7) Prime Minister Ben-Gurion's refusal to accept a ministerial inquiry's exoneration of former Minister of Defense Pinhas Lavon for responsibility of having ordered an ill-advised and badly handled secret operation into Egyptian territory.

It is apparent that the principle of collective responsibility has been involved in a majority of the issues which have caused Governments to fall. Despite formal and informal agreements by the parties in the Cabinets pledging adherence to the principle, collective responsibility has been frequently discarded, especially during times of an approaching national election, when the basic political, economic, and social doctrines of the many competing parties are restated for their faithful followers and in appeal to other voters.

Some of the issues which caused Cabinet crises but which did not cause Governments to fall were: (1) religious opposition to secular education for the Yemenite children in the transitory immigrant work camps; (2) a proposal to limit representation in the Knesset to parties polling more than a substantial minimum percentage of the total votes cast in national elections; (3) an attack by Israeli troops on the Syrian border positions; (4) a strike by civil servants and professionals against the Government for higher wages; (5) Soviet arms deals with Egypt;

(6) religious opposition to industrial exhibitions on Saturdays; (7) the ousting of Moshe Sharett from his portfolio of Minister of Foreign Affairs; (8) withdrawal of Israeli troops from the Sinai Peninsula in 1957; and (9) Prime Minister Ben-Gurion's endorsement of the Eisenhower Doctrine.

Viewed superficially, it would appear that the record of governmental stability has been poor. The fact is, however, that only one of Israel's nine Governments resigned because of a Knesset vote of non-confidence, and this was in February, 1951. In all other cases, Cabinet resignations, excluding those statutorily required because of the election of a new Knesset, were due to the decision of the Prime Minister to resign for personal reasons or for clashes within the Government over the replacement or reshuffling of ministers and over Cabinet principles, policies, and procedures.

While the inevitability of coalitions can be attributed to the multiplicity of parties in a parliamentary system based on proportional representation, the numerous resignations of Israel's Governments cannot be ascribed to the same phenomenon. In the period 1949–1952, Cabinet resignations were generally the result of personal clashes and of the replacement or reshuffling of ministers. With regard to the latter, such events were due to a gap in the Transition Law of 1949. Until this was remedied in 1952 by two amendments to the law, any permanent change in the composition of the Cabinet required the full constitutional procedure of Cabinet resignation, new formation, and confirmation by the Knesset. This procedure applied even to situations involving vacancies caused by illness or death or by the wish to add portfolios. Existence of this constitutional gap for such a long interval could be explained only by the jealousy of the political parties to retain for themselves the decision to change the composition of the Cabinet or the distribution of ministries.

With the enactment of Transition (Amendment No. 2) Law of June 24, 1952, and Transition (Amendment No. 3) Law of August 12, 1952: (1) individual additions to a Cabinet were now authorized, requiring only that an announcement be made before and be approved by the Knesset; (2) individual resignations from a Cabinet were now permitted, requiring simply an announcement before the Knesset; (3) changes in the distribution of functions among Cabinet members were now authorized, requiring merely an announcement before the Knesset; and (4) transfer of all or any of the powers vested by law in a particular Cabinet minister to another minister was now allowed, provided the transfer is recorded in the *Official Gazette* and is announced to the Knesset.

As a result of these two amendments, only three causes for com-

pulsory Cabinet resignations remain. These are: the death, incapacity or resignation of the Prime Minister; a vote of non-confidence by the Knesset; and a national election for a new Knesset upon expiration of its four-year term or upon its passage of a law to dissolve earlier. The withdrawal of one or more coalition parties from a Cabinet does not automatically cause the fall of that Government. If the remaining coalition partners command sixty-one or more votes in the Knesset and the Prime Minister remains, the Cabinet may continue in office and may distribute the vacant portfolios among existing ministers, provided an announcement to this effect is made before the Knesset. If the remaining coalition alliance lacks the sixty-one or more votes, either it must bring in one or more parties with sufficient seats in the Knesset to provide the coalition with the necessary majority of votes, or it must attempt to win back the withdrawn parties by granting greater concessions. Otherwise, such a Cabinet would continue in office as a minority Cabinet, weak and vulnerable, subject fully to the Knesset's politics and pressures and easy victim of a vote of non-confidence.

The 1952 amendments strengthened the Prime Minister and the Cabinet, and weakened some of the then excessive control by the political parties and the Knesset over the Government and its executive functions. They, likewise, eliminated an unnecessary source of internal Cabinet friction and crisis, and facilitated the filling of vacancies, distribution of portfolios, and transfer of functions and powers.

"Caretaker" Status

Regardless of the reason why an outgoing Cabinet has resigned, that Government continues in office until a new Government is confirmed by the Knesset. During this interval the outgoing Cabinet is said to possess "caretaker" status and is described as a "caretaker Government." In this capacity, however, it lacks the confidence of the Knesset and therefore is usually ineffective as an initiator of legislation. Because of the time consumed by coalition bargaining, all nine constitutional Governments served for varying lengths of time in caretaker status. Such periods are not necessarily turbulent; in fact, they have been frequently calm.

Since the existence of a caretaker Government may constitute a source of great danger to the security of the state in the event a military emergency occurs, attempts have been made to limit the time taken by a Prime Minister-designate to form a new Government. These have been in the form of legislative proposals mainly to set a deadline for the presentation of a proposed Cabinet to the Knesset for confirmation, and to provide for reporting to the President on the failure to form a Government. Premier Ben-Gurion and his party,

Mapai, have opposed such proposals as aggravating an already difficult situation by adding rigidity. Consideration is being given, however, to an amendment to the Transition Law of 1949 which would authorize the President to select another Prime Minister-designate if he feels that the first Prime Minister-designate is taking too long to form a new Government and appears to be making little or no progress.

Israel's Prime Ministers

In July, 1953, Ben-Gurion, who had been Prime Minister continuously since the establishment of the state in 1948, complained of fatigue and asked the Cabinet for a six-month vacation. Before leaving on vacation, Ben-Gurion named Minister of Foreign Affairs Moshe Sharett as Acting Prime Minister, and turned over the portfolio of Minister of Defense to Pinhas Lavon, who was Minister Without Portfolio. Both Sharett and Lavon were members of Mapai. The following November 7, Ben-Gurion submitted a letter of resignation to the Cabinet which was then transmitted to President Yitzhak Ben-Zvi. The Political Committee of Mapai voted on November 24 to approve Ben-Gurion's resignation and to nominate Sharett as Prime Minister, Lavon as Minister of Defense, and Zalman Aranne, a Mapai member of the Knesset, to join the Cabinet as Minister Without Portfolio. The next day, the Central Committee of Mapai met and unanimously confirmed the resignation and nominations. Mapai's nominations were presented to the President on the day of Ben-Gurion's formal resignation, December 7, 1953.

Some political observers in Israel expressed the opinion that Ben-Gurion's resignation was not caused by ill health but by friction with Mapai over his leadership. Opposition was growing to his continual compromising of socialist principles for political expediency, with either the religious parties or the capitalist General Zionists. Moreover, Sharett was considered a more cautious, flexible, patient and tolerant person than dynamic, strong-willed, independent, bold Ben-Gurion. The latter had, at times, acted first and conferred with his Cabinet afterward; and he had repeatedly and tactlessly censured Zionists of other countries, especially the United States, for not settling in Israel, causing strained relations with influential people whose financial assistance to Israel was continually saving the young nation from economic bankruptcy. Also irritating were his decisions for reprisal raids across the armistice lines. These had increased tensions with the Arab states and added to Israel's troubles. On the other hand, Sharett indicated a greater sensitivity to foreign reactions to Israel and was more conciliatory and restrained in foreign relations. It was felt at the time, for example, that had Sharett been in power the dispute over the Jordan River hydroelectric power project might never have reached

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the stage where the United States suspended its grant-in-aid funds in order to force Israel to comply with a request of the United Nations for stoppage of the disputed work in the demilitarized zone on the border.

Yet, Premier Sharett's moderate foreign policy became the target of severe criticism by the extremist parties, which were capitalizing on the growing popular discontent with the Prime Minister's failure to match Arab raid with Israeli raid across the borders. His popularity soon began to wane, and Mapai looked again to its greatest vote winner, Ben-Gurion. On February 21, 1955, after more than a year of retirement, Ben-Gurion returned to Israel's Government as Minister of Defense, replacing Pinhas Lavon, whose resignation was accepted by Prime Minister Sharett's Cabinet the previous day. The Knesset approved the change by a vote of 74 to 22. Ben-Gurion agreed to return to a leading and strategic position in the Cabinet and to use his influence to stem the growing popular discontent with the policy of moderation pursued by Sharett at a time of increased hostility toward Israel by the Arab nations and in a deteriorating general security situation in the Middle East as a result of the arms race.

Israel's fifth Government came to an end on June 29, 1955, when Premier Sharett resigned because of the violation of Cabinet collective responsibility by the General Zionists in the Knesset votes of confidence involving Mapai leader Dr. Israel Kastner, who was accused of collaborating with the Nazis.¹⁶ Since the national election was six weeks away, Sharett continued to head the new Government which simply marked time for the coming election and the return of Ben-Gurion. On November 3, 1955, the latter, then 68 years old, became Prime Minister and has held that premiership ever since; and Sharett resumed his former position of Minister of Foreign Affairs. How-

¹⁶ The lawsuit which led to the fall of the Government was a criminal libel action brought by the Attorney General against a writer, Malkiel Greenwald, who had accused Dr. Israel Kastner, a Mapai leader in Tel Aviv, of having collaborated with Nazi Col. Adolf Eichmann while serving as head of the Jewish Rescue Committee in Nazi-occupied Budapest. The District Court in Jerusalem found that the accusation was generally substantiated. A day after the judgment was delivered by the Court, the Acting Attorney General announced that an appeal would be taken by the state to the Supreme Court. This action, together with the defensive attitude of Mapai leaders toward Dr. Kastner and broadcasts over the state-owned radio system, was interpreted by the opposition parties as an indication that the Government had placed itself firmly behind a person whom the Court had branded as a Nazi collaborator. In March, 1957, while the appeal was being heard by a panel of five justices of the Supreme Court sitting as a court of criminal appeals, Dr. Kastner was slain by three young extreme nationalists.

ever, on June 18, 1956, Prime Minister Ben-Gurion, after months of waiting, succeeded in forcing Sharett out of the Cabinet for being too cautious, moderate and temporizing in his conduct of foreign affairs. Sharett submitted his resignation to the Cabinet, and the Prime Minister informed the Knesset of the event the same day. Aware that he could not lead the Government for many more years, Premier Ben-Gurion, it was reported, had been grooming Pinhas Lavon to be his successor. As events later unfolded, these two became bitter enemies each accusing the other of deceit.

In December, 1960, a Cabinet committee inquiry exonerated Pinhas Lavon of responsibility for a security operation into Egyptian territory six years earlier which had been badly executed and had disclosed to the Egyptians the newest of Israeli weapons. The result was that Egypt appealed successfully to the Soviet Union for arms, and Defense Minister Lavon was dismissed. Lavon denied ordering the operation and charged forgery. Ben-Gurion refused to accept the Cabinet verdict and asked for a judicial inquiry in which all the parties and witnesses would testify under oath. Unless this were done, the Prime Minister threatened, he would resign. In addition, he gave the Mapai Party an ultimatum to remove Lavon from the post of secretary general of the Histadrut. While the Cabinet and the party were struggling with the problem and trying to work out some compromise, Ben-Gurion, who had been boycotting Cabinet meetings after issuing his ultimata, suddenly resigned on January 31, 1961, bringing down his six-party coalition Government, Israel's ninth. Ben-Gurion won all his demands. Lavon was ousted from his Histadrut post, and Mapai backed Ben-Gurion fully, not without increased rumbling, though, from below among young Mapai members.



SUGGESTED READINGS

- Bernstein, Marver H. *The Politics of Israel: The First Decade of Statehood*. Princeton: Princeton University Press, 1957. Pp. 122-41.
- Etzioni, Amitai. "Alternative Ways to Democracy: The Example of Israel," *Political Science Quarterly*, LXXIV (June, 1959), 196-214.
- Rosenne, Shabtai. *The Constitutional and Legal System of Israel*. New York: Israel Office of Information, 1957. Pp. 23-28.
- Samuel, Edwin. *Problems of Government in the State of Israel*. Jerusalem: Rubin Mass, Publisher, 1956. Pp. 35-40 and 52-54.

The President

The office of the President of Israel was created on February 16, 1949, by the Transition Law of 1949, Israel's "Small Constitution."¹ No reference had been made to the President of the State of Israel in the provisional period. The Provisional Council of State had elected its own President, Dr. Chaim Weizmann, who legally presided solely over the provisional Parliament, but who, because of his international renown and his role in the establishment of the nation, acted as head of the state in matters of representation and ceremony.

In creating most of the organs of government, Israel's founding fathers turned to England for their primary guidance. Yet, with regard to the head of the state, despite ancient Israel having been a monarchical state and modern Britain being a limited monarchy, the founding fathers, sensitively mindful of dictatorship, did not consider a monarchy in any form; and, instead, they chose a weak president of the continental European variety, with particular resemblance to France and Italy. During the provisional regime, a fundamental difference arose between Dr. Weizmann and Ben-Gurion as to the role of the President. Dr. Weizmann advocated the American presidential system in which the President is a powerful executive and is both head of the state and head of the Government. On the other hand, Mr. Ben-Gurion, heavily supported by public opinion, insisted that the President be, as in the French system, only the formal head of the state. "Weizmann did not hide his disappointment," wrote James G. McDonald, first United States Ambassador to Israel. "I had the impression in those early months that he hoped his view might in part be accepted."²

¹ Chapter Two, Transition Law, 5709-1949, enacted on February 16, 1949, *Laws of the State of Israel*, III (5709-1949), 3.

² James G. McDonald, *My Mission in Israel, 1948-1951* (New York: Simon and Schuster, 1951), p. 254.

Kenneth W. Bilby, *New York Herald Tribune* correspondent, reported in 1949 that President Weizmann had confided to him his duties were like those of the French President and would probably require about two hours work daily. "I don't expect it to be like the presidency of the United States," he remarked.³ Two years later, when Maurice J. Tobin, then United States Secretary of Labor, toured Israel, he visited Dr. Weizmann and conveyed President Truman's disappointment that the President of Israel had not taken a stronger position concerning the protection of Arab refugees. "I am only a constitutional President," replied Dr. Weizmann, "and it's outside my province. My handkerchief is the only thing I can stick my nose into. Into everything else — it's Ben-Gurion's nose."⁴

Qualifications of Office

No qualifications for the office of President were set by either the Transition Law of 1949 or the State President (Tenure) Law of 1951. The position may be held by male or female presumably of any age, for no minimum age restriction has been provided for by law. There is no constitutional requirement even that the President be a citizen of Israel.

Election of the President

The President is not popularly elected, but is chosen by the Knesset.⁵ The procedure set by the Transition Law of 1949 simply required that a candidate receive the votes of more than half of all the members of the Knesset on either the first or second ballot. If no such majority was obtained on the first two ballots, the voting would continue; and the candidate receiving the votes of more than half of the members of the Knesset taking part in the third or subsequent ballot would be considered as elected President. On the third and any further ballot, if no candidate received the necessary majority, the one with the lowest number of votes was eliminated, and another ballot would be taken. This procedure would be repeated until a candidate received the required majority.⁶

No provision, however, had been made for fixing an election date,

³ Kenneth W. Bilby, *New Star in the Middle East* (New York: Doubleday & Co., Inc., 1950), p. 167.

⁴ *New York Post*, September 6, 1951, p. 24.

⁵ Section 1, State President (Tenure) Law, 5712-1951, enacted on December 3, 1951, *Laws of the State of Israel*, VI (5712-1951/52), 4.

⁶ Section 3, Transition Law, *ibid.*, 3.

for how a candidate was to be proposed, and for the arrangements in the Knesset to conduct the election. These and other gaps were filled by the State President (Tenure) Law of 1951. The new procedure, still in effect, provides for the Speaker of the Knesset to set the date of the election and to notify all members in writing at least twenty days in advance. The election must take place between thirty and ninety days before the expiration of the term of office of the preceding President. If the tenure of the outgoing President should end before his five-year term of office, the election must be held within thirty days from the day of termination of such tenure.⁷

Once the date of election has been set, a candidate may be proposed by ten or more members of the Knesset who submit their nomination in writing to the Speaker not later than ten days before the day of election. This written proposal must be accompanied by the consent of the nominee in writing. No member of the Knesset may propose more than one candidate. It is the responsibility of the Speaker then to notify all Knesset members in writing, not later than seven days before the day of the election, of each proposed candidate and also of the names of the members sponsoring him. In addition, within this same period of time, the Speaker must formally announce the proposed candidates at a meeting of the Knesset.

The election of the President is by secret ballot at one or more consecutive meetings of the Knesset devoted solely to this purpose. The balloting procedure set by the Law of 1951 is essentially the same as that provided for by the Transition Law two years earlier. Only members of the Knesset who are present may vote in an election for the President; no absent member may pair his vote. The Speaker calls the members in alphabetical order, and votes in his turn. As soon as possible after his election, the President-elect is required to read and sign the following declaration of allegiance before the Knesset: "I pledge myself to bear allegiance to the State of Israel and to its laws and faithfully to carry out my functions as President of the State."⁸ If the House Committee finds that, because of special circumstances, the declaration by the President-elect cannot be made before the Knesset, it will determine where and before whom he must read and sign the declaration of office.

Israel has had two Presidents since statehood. Dr. Weizmann, a member of the General Zionist Party, was elected the first President by the Knesset on February 16, 1949, on the first ballot; and on the following day he was sworn in and assumed office. He served until

⁷ Sections 3-4, State President (Tenure) Law, 4.

⁸ Section 6, *ibid.*, 5.

November 19, 1951, the President's tenure then being in accordance with the Transition Law of 1949, concurrent with the life of the First Knesset and until the end of three months after the convening of the Second Knesset.

On the latter day, the Knesset took the first ballot for the election of a new President. No candidate other than Dr. Weizmann was proposed; and he was nominated by a number of parties, including the General Zionists, Mapai, Progressives, and Mizrachi. As the Clerk of the Knesset called the roll, each member deposited a sealed envelope containing his vote in a box before the Speaker's table. Eighty-five votes were cast in favor of Weizmann, eleven against him, and eleven abstained. Ten of the votes against Weizmann were apparently cast by the Communist and Herut delegates whose parties had declared their opposition to his re-election. Although Mapam did not participate in the nomination of Weizmann, its leaders announced that they would support his re-election in recognition of his record of service and personal merit.

The votes were counted by a committee consisting of one representative from each of the three leading parties — Mapai, General Zionists, and Mapam. The Speaker of the Knesset announced the results the same day, and proclaimed Dr. Weizmann's re-election. The latter, however, was too ill to appear before the Knesset in Jerusalem for inauguration on November 25, 1951. Consequently, the ceremony was held at his home in Rehovoth, near Tel Aviv. Under the provisions of the Transition Law of 1949, the oath of office was required to be taken within seven days of the President's election either before the Knesset itself or in the presence of the Speaker elsewhere. The Speaker therefore went to Weizmann's home together with the President of the Supreme Court; and there the President read and signed the following declaration: "I, Chaim ben Ozer and Rahel Weizmann, pledge myself as President of the State to be loyal to the State of Israel and to its laws."⁹

A week later, on December 3, 1951, the Knesset passed the State President (Tenure) Law, 5712-1951, which provided for a five-year term of office. On November 9, 1952, President Weizmann died after serving nearly one year in office in his second term. Under the provisions of the new law, the Knesset met on December 8 to elect another President. Four candidates were proposed, three of whom were members of the Knesset. Three ballots were necessary to obtain the

⁹ *Israel Digest*, II (November 30, 1951), 1. This declaration was the one required by Section 4, Transition Law, 5709-1949. The word "ben" in the pledge is Hebrew for "the son of."

required majority. The candidate elected was Yitzhak Ben-Zvi, 68 years old, a leading member of Mapai Party, an acknowledged historian, and an old colleague of Ben-Gurion from World War I days when both served as privates in the British Army. Ben-Zvi received 62 votes on the third ballot, in which 112 members of the Knesset participated. He was inaugurated at a public ceremony held in the Knesset on December 10, 1952, in which he read and signed the declaration of allegiance and made a brief address on the state of domestic and foreign affairs and on the general tasks of the future. Present were members of the Knesset, the Government, and the diplomatic corps, and prominent residents of and visitors in Israel.

President Ben-Zvi's term of office expired on December 9, 1957. The Speaker set October 28, 1957, as the date for the election of a new President. On that day, the Knesset met. Only two candidates had been proposed — Ben-Zvi and a member of the right-wing opposition Herut Party; but the latter withdrew before the election was held. The nomination had been offered to Ben-Zvi on October 18 by a delegation of eleven Knesset members representing ten of the thirteen parties in the Knesset, including the Arab parties and even the opposition General Zionists and Agudat Israel. Ben-Zvi accepted and signed his letter of consent in their presence. Herut, Mapai's major opponent, proposed Joseph Joel Rivlin, Professor of Arabic at the Hebrew University, but was willing to support Ben-Zvi provided the President would resign his membership in Mapai or would undertake to work for an amendment to the State President (Tenure) Law of 1951 that would make mandatory the resignation from party affiliation by every future President. Ben-Zvi discussed the matter with Herut representatives and explained that he could never do so, since he had been a founder and life-long member of Mapai, and also because as President he could not express an opinion on future legislative action.¹⁰ Nevertheless, Herut acknowledged Ben-Zvi's impartiality as head of the state and withdrew its candidate before the election.

Only one ballot was required for the re-election of Ben-Zvi. He received 76 votes in his favor; 18 ballot papers were left blank, and 26 members were absent. Since the outcome had never been in doubt, the election was quiet in contrast with the election in 1952 when the result was tense and uncertain until the last moment of the third ballot. After the election, spokesmen for Herut, the Communists, and Agudat Israel declared that their parties had cast the eighteen blank ballots. Herut abstained so as to demonstrate its belief that the President should relinquish political party membership when he is elected. Had they not held Ben-Zvi in such high esteem, they asserted, they would have

¹⁰ *The Israel Weekly Digest*, I (October 24, 1957), 3.

positively opposed his re-election. The Communists abstained because Ben-Zvi had not seen fit, in their opinion, to dissociate himself from the Western-oriented foreign policy of the Governments of Prime Ministers Ben-Gurion and Sharett. To the Communists, Israel was in the camp of capitalism and imperialism. Not wishing to blame Ben-Zvi for policies he did not make, the Communist Party abstained instead of casting opposition votes. As for Agudat Israel, it continued to emphasize its conviction that Israel must be based on an orthodox religious foundation; and since the President's party, it felt, was anti-religious it could not vote for him. Similarly, it acknowledged his scholarly and impartial behavior as President and cast blank instead of opposing votes.

Ben-Zvi assumed his second five-year term of office at the age of 73 on October 30, 1957, with inaugural ceremonies in the Knesset chamber in Jerusalem. While Israeli public excitement cannot be compared with the enthusiasm displayed in the United States over the election of the President, the interest of Israel's public has increased since the election of Weizmann in 1951. At that time, the *New York Times* correspondent reported: "There is little interest here in the presidential election. The President has no independent power and is merely a figurehead."¹¹ The same cannot be said today, for Ben-Zvi has been vigorous, whereas Weizmann had been ailing; and the former is aware of opportunities to exert strength and influence, while the latter was somewhat embittered with his minor office and remained passive.

Term of Office

The Transition Law of 1949 defined the office of the President in general terms. It failed to provide for any fixed term of office; instead it linked the President's tenure to the duration of the term of the First Knesset — which also was not fixed — and until the end of three months following the convening of the Second Knesset.¹² The State President (Tenure) Law, enacted by the Knesset on December 3, 1951, provided for a fixed term of "five years from the day on which he assumes his functions."¹³ Presidential tenure begins when the President-elect reads and signs the constitutional declaration of allegiance, which is ordinarily accomplished on the day of the expiration of the term of office of the outgoing President. If the preceding President resigns, dies in office, or is ousted before the expiration of his term, the new President assumes office upon his declaration of alle-

¹¹ *New York Times*, November 14, 1951, p. 6.

¹² Section 5, Transition Law, *ibid.*, 3.

¹³ Section 2, State President (Tenure) Law, *ibid.*, 4.

giance and is given a full five-year tenure from that day. There is no election of a President to serve out a preceding President's unfinished term. Constitutionally, there is no limit on the number of terms a President may serve. Weizmann was elected to two terms but died in his second term. Ben-Zvi, the current President, is serving his second term. Because of the fame and service of the first President, Mapai had proposed, several days before the expiration of Weizmann's first term in November, 1951, that he be re-elected President for life. The proposal was agreeable to the General Zionists, Weizmann's own party, but not to the other parties.

Acting and Interim Presidents

The Transition Law of 1949 did not provide for the possibility of a President resigning or being ousted, or for any acting head of state to fill the office temporarily during the absence of the President from the country or in the event of his incapacity because of ill health. For over two years, temporary legislation was relied upon to fill any problem that might arise. In 1951, the State President (Tenure) Law repealed the ad hoc legislation and provided for both the temporary inability of the President to carry out his official functions and the permanent termination of the President's tenure by death, resignation, lingering incapacitating illness, or deposition. The new law authorized the President to resign at his pleasure by submitting a letter of resignation to the Speaker of the Knesset. It designated the Speaker to serve as "Acting President" when the President has left the country or when the President has been declared, by a three-fourths majority of the Knesset's House Committee, to be temporarily unable to perform the functions of his office because of ill health. In either event, the Speaker is responsible for carrying out all the functions of, and is authorized to exercise all the powers of, the President.¹⁴ If the House Committee declares the President to be permanently incapacitated, the latter's tenure terminates on the day of the decision and the Speaker serves as "Interim President" until a new President is chosen.¹⁵

Deposing a President

The President may be deposed by the Knesset if it considers him unworthy of continuing in office because of conduct unbecoming his status as head of the state. The procedure for such action is deliberately cumbersome and time-consuming in order to avoid, as far as possible, the shame of ousting the head of the state. The House Committee is the responsible body for initiating ouster action. After both

¹⁴ Sections 11 and 14, *ibid.*, 5-6.

¹⁵ Sections 13 and 15, *ibid.*, 6.

sides of the case are heard by the Knesset, a vote is taken. A three-fourths majority of all its members is required for deposing the President.¹⁶

The President and Legislation

The President's relations with the Knesset are principally honorary in nature. He opens Knesset sessions by delivering an address so as to lend the prestige of his office to the parliamentary meeting. He must sign all laws passed by the Knesset, except those concerning his own powers; but his signature alone does not put a law passed by the Knesset into effect.¹⁷

The President and the Cabinet

Little executive power was constitutionally assigned to the President. His relations with the Cabinet—Government—are limited to: (1) designating a Prime Minister-elect and charging him with the task of forming a Government, (2) receiving the resignation of a Prime Minister and the Cabinet, (3) signing official documents, and (4) receiving regular official reports on the Cabinet's activities from the Secretary to the Government. When a Government has been approved by the Knesset, it is customary but not constitutionally required that the Prime Minister present his Cabinet to the President. This represents a form of inaugural ceremony. The President, however, does not convene or preside over meetings of the Cabinet, and he does not attend or take part in them unless specifically invited to do so by the Prime Minister on behalf of the Government.

If the Prime Minister personally resigns, or if the Cabinet decides to resign or is forced to resign because of a non-confidence vote by the Knesset, the resignation is tendered to the President.¹⁸ The President then conducts his consultations and designates a Prime Minister-elect. Should no one accept the task of forming a new Government, or if no new Cabinet meets with parliamentary confirmation, the President may not call for a national election to resolve the impasse. Only the Knesset may dissolve itself and order a general election.

On February 25, 1951, eleven days after Prime Minister Ben-Gurion resigned over internal policy differences between several of the coal-

¹⁶ Section 12, *ibid.*, 5-6.

¹⁷ Section 2, Transition Law, *ibid.*, 3.

¹⁸ Section 11, *ibid.*, 4, and Section 1, Transition (Amendment No. 2) Law, 5712-1952, enacted June 24, 1952, *Laws of the State of Israel*, VI, *ibid.*, 73.

tion parties and himself, President Weizmann requested him, as leader of the largest party represented in the Knesset, to form a new Cabinet. The latter, after attempting unsuccessfully to form a new coalition, informed the President of his failure and advised him to entrust the task to the leader of some other party. After consulting leaders of the various parties, the President informed the Speaker of the Knesset of the situation and concluded that the resigned Government should continue in office in caretaker status until after the national election which was only four months away. In April, two Knesset members of opposition parties filed a petition with the Supreme Court alleging that the President had failed to fulfill his obligation under Section 9 of the Transition Law of 1949 by not having kept calling on different members of the Knesset to attempt to form a Cabinet until one would succeed. The petition asked the Supreme Court to order the President to appear before the Court and show cause why a writ of mandamus should not be issued ordering him to fulfill his constitutional duty. In opposing the petition, the Attorney General argued that, although the Transition Law of 1949 did not grant the President immunity from the judicial process, he was immune from subpoena as a witness in any matter concerned with his office and from being the subject of court proceedings while in office by precedent of the English monarch, the Presidents of France and Italy, and the President of the United States. In addition, the Attorney General maintained, the very nature of the issues involved rendered such matters outside the jurisdiction of any court.

The case, *Jabotinsky et al. v. Dr. Weizmann, President of the State*,¹⁹ was decided in favor of the Government. In its decision, the Supreme Court dodged the question of immunity and based its ruling on the question of jurisdiction. In refusing to assume jurisdiction, the Court explained that any other decision would require it to decide whether the President should call on all 120 members of the Knesset in turn until a new Cabinet was formed. The Court avoided deciding that this was the intent of the Knesset in Section 9 of the Transition Law of 1949. Such matters as the formation of a Cabinet, the Court ruled, are clearly not justiciable but belong in the political sphere.

The President and Foreign Affairs

In the field of foreign affairs, the President's powers are, likewise, largely nominal or ceremonial. He appoints, on the recommendation of the Minister of Foreign Affairs, Israel's diplomatic and consular

¹⁹ H. C. 65/51 (1951) and 5 *Piskei-Din* 801 (1951). See Uriel Gurney, "American Precedent in the Supreme Court of Israel," *Harvard Law Review*, LXVIII (May, 1955), 1205-10, for a detailed discussion of the case.

representatives; and he receives the credentials of ambassadors and consuls of foreign nations. He also signs all treaties which are concluded by Israel with other countries, after the Knesset has ratified them; and he receives diplomatic representatives of foreign states sent to Israel and important visitors from abroad.²⁰

Presidential Power of Appointment

In addition to his authority to appoint diplomatic representatives, the President appoints the State Comptroller, justices of the Supreme Court, and judges of the district, magistrate, and religious courts. However, in each of these instances, there is a limiting factor. In the appointment of diplomatic representatives, this is accomplished on the recommendation of the Minister of Foreign Affairs. Similarly, the State Comptroller is appointed on the recommendation of the House Committee of the Knesset; and, resembling the Comptroller General of the United States, the State Comptroller, once appointed, is responsible only to the Knesset.²¹ In like manner, justices of the Supreme Court and judges of the district and magistrate courts are appointed on recommendations of the Appointments Committee brought before the President by the Minister of Justice.²² Judges of the rabbinical courts are appointed by the President but on the proposal of the Appointments Committee brought by the Minister of Religious Affairs.²³

On the recommendation of the Chief of the General Staff of the Israeli Army, the President appoints the President of the Military Court of Appeal.²⁴ The Governor of the Bank of Israel also is appointed by the President but on recommendation of the Cabinet.²⁵ Also on the proposal of the Cabinet, the President appoints the twenty-one member Defense Levy Board which supervises a defense fund raised by a special tax to finance the acquisition of arms and equipment and the construction of fortifications and shelters.²⁶ An ap-

²⁰ Section 6, *ibid.*, 3.

²¹ Section 2, State Comptroller Law, 5709–1950, passed on May 18, 1949, *Laws of the State of Israel*, III (5709–1949), 23.

²² Section 5, Judges Law, 5713–1953, enacted August 20, 1953, *Laws of the State of Israel*, VII (5713–1952/53), 125.

²³ Section 6, Dayanim Law, 5715–1955, passed on May 16, 1955, *Laws of the State of Israel*, IX (5715–1954/55), 75. The word “Dayanim” is Hebrew for judges of the rabbinical courts.

²⁴ Section 185, Military Justice Law, 5715–1955, passed on June 21, 1955, *ibid.*, 225.

²⁵ Section 8, Bank of Israel Law, 5714–1954, enacted August 24, 1954, *Laws of the State of Israel*, VIII (5714–1953/54), 165.

²⁶ Section 2, Defense Levy Law, 5716–1956, passed on May 22, 1956, *Laws of the State of Israel*, X (5716–1955/56), 51–52.

pointee of the President who need not be recommended by any other official of government or other public or private body is the President of the Red Shield of David in Israel Society which corresponds to the Red Cross and is a corporate semi-governmental agency subject to the supervision of the State Comptroller.²⁷

Power to Pardon, Reprieve and Commute

Like most Presidents, the President of Israel has the power to grant pardons and reprieves to convicted persons and to commute their sentences.²⁸ This power, however, is not absolute with regard to the Israeli President, as it is with the American President; for, if, in connection with the request for a pardon or commutation of sentence made to the President of Israel, a question should arise on which the Minister of Justice believes the opinion of the Supreme Court ought to be heard but which cannot provide a ground for retrial, the Minister of Justice may refer the question to the Court for examination. The Court has the authority to decide whether to deal with the question. If it decides not to deal with the question, the request for pardon or commutation of sentence is solely within the power of the President to act upon; whereas, if the Court decides to deal with the question, the Court will handle the case as though it were a retrial ordered by the President of the Supreme Court.²⁹

Prohibitions, Privileges and Immunities

The President of Israel is prohibited from holding any other office and from carrying out any other functions during his tenure, except with the approval of the Knesset's House Committee. If he is a member of the Knesset at the time of his election, his parliamentary membership automatically ceases. While in office, the President may not leave the country without the approval of the Government. As head of state, he is exempt from all compulsory service, military and civilian; and he enjoys complete immunity, during and also after his tenure, from being called to account, before any court or tribunal, in connection with any matter relating to his functions or powers. While he is in office, no legal action may be taken against him for any cause. If he is required

²⁷ Section 4, Red Shield of David Law, 5710–1950, enacted July 12, 1950, *Laws of the State of Israel*, IV (5710–1949/50), 128.

²⁸ Section 6, Transition Law, *ibid.*, 3.

²⁹ Section 10, Courts Law, 5717–1957, passed on July 23, 1957, *Laws of the State of Israel*, XI (5717–1956/57), 159–60.

to give evidence, it must be given at a time and place fixed with his consent.³⁰

Although the Supreme Court dodged the question of the President's immunity from the judicial process in the case of *Jabotinsky et al. v. Dr. Weizmann, President of the State* in 1951, the Knesset did not let it go unnoticed. Less than six months later, the Knesset passed the State President (Tenure) Law which filled the omissions of the Transition Law of 1949 and provided the full immunity described above.

Future of the Presidency

While it is true that the President's signature on legislative enactments and government documents has no force of its own and serves only the purpose of authentication, it does enable the head of the state who is possessed of a deep interest and strong personality to keep in close touch with parliamentary and administrative life. By receiving the Prime Minister, other Cabinet members, Knesset leaders, and local government officials in frequent audience and studying their reports and those of the Secretary to the Government, the President can be kept fully aware of the overall political state of affairs. His consultations and visits with diplomatic representatives of foreign nations bring him into even closer relation with political activities.

In the hands of its first occupant, the presidency was hardly more than ceremonial in nature. Its second and current occupant, President Ben-Zvi, has transformed the role to that of — paraphrasing Walter Bagehot's description of the position of Queen Victoria of England — consulter, encourager, and warner. He has introduced a number of non-constitutional practices which have strengthened the position of the presidency. These include visits with minority groups, rallies with immigrants, and sponsorship of relief and charity campaigns as part of his office. In addition, President Ben-Zvi has modified his constitutional authority to open the first session of each Knesset by delivering a formal address on the state of Israel's affairs. If continued, it may, in time, be broadened to include recommendations of domestic and foreign policy.

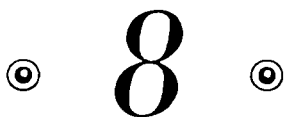
Neither of Israel's two Presidents was born in Palestine. What influence future native-born Presidents may exert on the presidency is difficult to predict. It is, nevertheless, extremely doubtful that the Israeli presidency will ever approach that of the American presidency.

³⁰ Sections 8–10, State President (Tenure) Law, *ibid.*, 5.



SUGGESTED READINGS

- Silver, Ra'Anan. "The President's Office," *HaMinhal: The Public Administrator's Quarterly* (Index to 1955 Volume), 14-16.
- "The Presidency in the First Decade of the State of Israel," pp. 27-30 in *Israel Government Year Book 5719 (1958)*. Jerusalem: The Government Printer, 1958.



The Judicial System

Israel is a young and changing state. Its system of law and courts, although rooted, to a considerable extent, in the past — in Ottoman, Mandate, British, and traditional Jewish and Moslem sources — is, likewise, young and in flux. Its judges come from many countries and have been educated in a variety of law schools. As a result, the reliance on British jurisprudence, introduced in the Mandate period, is generally losing strength. Instead, a new jurisprudence, native to Israel and influenced especially by American concepts of the rule of law and civil rights and liberties, is evolving.

Elements of Israeli Law

In the absence of a written, formal constitution, the legal system is a composite of five principal elements of law. These are: (1) Ottoman law which prevailed in the Holy Land until the defeat of Turkey in World War I; (2) regulations and ordinances of the British authorities in Palestine under the League of Nations' Mandate; (3) British common law and equity; (4) legislation enacted by the Knesset; and (5) religious law, a special body of law with a separate court system, dominant in matters of marriage, divorce, alimony, burial, and, in certain instances, inheritance.

Ottoman Law

Ottoman law in Palestine was a composite of Koranic precepts and Islamic customs insofar as civil transactions, personal status, and ownership of property, especially land, were concerned, and of French legal codes adopted by the Turkish sultans in the nineteenth and early twentieth centuries with respect to civil and criminal procedures and commercial and maritime law. What remains of Ottoman law in force in Israel is not homogenous. Inspired by several distinct legal systems,

it has never been tied together. The *Mejelle*, or Civil Code, promulgated in 1869, which is the core of Ottoman law still in existence in Israel, originally consisted of an introduction and sixteen books containing 1,851 sections. About one-third of these, mainly those dealing with civil wrongs, commercial law, and legal procedure, has since been repealed.

Another Ottoman influence is the Ottoman Land Code of 1858, which was based partly on Moslem tradition and partly on custom. After the revolution of the Young Turks in 1909, land reform was instituted, and several of the new laws were later carried over by the British administration. The Young Turk revolution was also responsible for modernizing the entire Ottoman legal system, in which program French models were generally used. Consequently, the Israeli courts often refer to the original French sources. To this extent French law can be regarded as part of the Ottoman element of Israeli law.

British Legislation

British legal authority in Palestine rested internationally on the Mandate approved by the League of Nations July 24, 1922, and domestically on the Palestine Order-in-Council of 1922. These two constituted the organic constitutional law of Palestine during the Mandate period. Legislative power was vested in the High Commissioner, and was exercisable subject to his legislation being in no way repugnant to or inconsistent with the provisions of the Mandate.

The Palestine Order-in-Council, issued in 1922, provided for Turkish law prior to November 1, 1914 — the day on which Turkey joined the Central Powers — to remain in effect, with gaps to be filled by the regulations and ordinances promulgated by the Mandate administration and by the common law and rules of equity prevailing in Great Britain.¹ Modeled on British legislation these regulations and ordinances displaced a considerable portion of Ottoman influence, particularly in commercial and land law. By 1948, Palestine had in effect a body of statute law based mainly on British models.² Israel's second decade of statehood gives indications that this British element, similarly, is largely being replaced by Israeli legislation.

British Common Law and Equity

The introduction of the substance of British common law and the

¹ Palestine Order-in-Council of August 10, 1922, came into force September 1, 1922, *Laws of Palestine*, III (1934), 2569.

² Norman Bentwich, "The Legal System of Palestine under the Mandate," *The Middle East Journal*, II (January, 1948), 33-46.

doctrines of equity and their underlying principle of *stare decisis* — the binding force of judicial precedents — constitutes probably the most significant heritage of the British administration in Palestine. The application of these concepts was not automatic and rigid. Local circumstances determined whether a precise rule in force in Great Britain was suitable for Palestine. In making this determination, the judges could modify the British rule to fit conditions in Palestine. Final appellate jurisdiction was vested not in the Palestinian Supreme Court but in the Judicial Committee of the Privy Council in London.

Israeli Legislation

On May 14, 1948, when the British Mandate over Palestine terminated and Israel proclaimed its independence, the Provisional State Council issued a Declaration of the Establishment of the State of Israel,³ popularly known as the Declaration of Independence, which was followed by a Proclamation.⁴ The Declaration was signed by the members of the Jewish community quasi-government of Palestine who constituted the People's Council. In this Declaration, it was stated that the People's Council would act as the Provisional State Council and that its executive body, the People's Administration, would function as the Provisional Government. The Proclamation, bearing the signatures of all members of the Provisional State Council proclaimed the Provisional State Council to be the new state's temporary legislative authority. It concluded: "So long as no laws have been enacted by or on behalf of the Provisional State Council, the law which existed in Palestine on May 14, 1948, shall continue in force in the State of Israel, in so far as such continuance in force is consistent with the contents of this Proclamation, with the future laws and with the changes arising from the establishment of the State and its authorities."⁵

Since the Declaration and Proclamation could not be classed as law, the Provisional State Council proceeded five days after the creation of Israel to clothe its decisions in more regular form by enacting the Law and Administration Ordinance.⁶ The contents of the Proclamation were repeated in this ordinance. Section 11 of the latter provided: "The law which existed in Palestine on May 14, 1948, shall remain in force, in so far as there is nothing therein repugnant to this ordinance or to the other laws which may be enacted by or on be-

³ *Laws of the State of Israel*, I (5708-1948), 3-5.

⁴ *Ibid.*, 6.

⁵ Section 3, *ibid.*, 6.

⁶ Law and Administration Ordinance, 5708-1948, passed on May 19, 1948, *Laws of the State of Israel*, I, *ibid.*, 7-12.

half of the Provisional State Council, and subject to such modifications as may result from the establishment of the State and its authorities.”⁷

This differed somewhat from the similar statement appearing in the earlier Proclamation. The implication that the Declaration and the accompanying Proclamation lacked legal force was confirmed by several judicial decisions. In one of its earliest cases, the Supreme Court declared that the purpose of the Declaration was to assert the independent existence of the state and that the Declaration was not a fundamental law with constitutional basis in the light of which the validity of other laws could be assessed and determined.⁸ Shortly afterward the Supreme Court retracted somewhat by explaining that it had not intended to imply that the Declaration was hardly more than a political document. Rather, the Declaration was the equivalent of a law, enacted by the provisional Parliament to establish legally the state; but it was not a constitution against which the legality of legislation could be tested.⁹ It was suggested by the Court that the Declaration freed the judiciary to adhere to other elements of the law in connection with international law and not to be bound by British common law in this respect.

In enacting the Law and Administration Ordinance the Provisional State Council adopted substantially the legal system that existed in Palestine under the Mandate. This included the fundamental principles of trial without jury, presumption of innocence until guilt is proved, and granting of bail in criminal cases, and the practice of appointing all judges. While the Ordinance contained several provisions designed to eliminate the dependence on British and Ottoman law, it retained such law provided: (1) it was not repugnant to legislation passed by Parliament; (2) it incorporated modifications resulting from the establishment of the state and its authorities; and (3) it was valid and in force on May 14, 1948, the day of statehood.

To remove any doubt as to the authority of the Knesset to replace the laws in force prior to statehood, the Provisional State Council on July 1, 1948, enacted the Law and Administration (Further Provisions) Ordinance which asserted that “where any law enacted by or on behalf of the Provisional State Council is repugnant to any law which was in force in Palestine on May 14, 1948, the earlier law shall be deemed to be repealed or amended even if the new law contains no express repeal or amendment of the earlier law.” In like manner, laws in force in Palestine could be amended by action of the Provisional

⁷ Section 11, *ibid.*, 9.

⁸ *Ziv v. Gubernik et al.*, 1 *Pesakim* 33 (1948–49).

⁹ *El-Kharbutli v. Minister of Defense*, HC 7/48, 1 *Pesakim* 97 (1948–1949).

State Council even if the earlier law was not specified or if the new law used different expressions for the same concept.¹⁰

New versions of the laws which existed in Palestine under the Mandate and which are still in effect in Israel may be drafted by the Minister of Justice and must be published in the *Official Gazette*. These must embody all the changes resulting from the establishment of the state and include all the changes made in those laws by the Knesset since statehood. Within a time limit set by the Minister of Justice, an Advisory Board examines the draft version and reports to the Constitution, Law and Justice Committee of the Knesset its recommendations as to the corrections necessary to bring the draft version into conformity with the original law. The Committee may accept the new version as submitted by the Board or may make its own changes in the draft. The version approved by the Committee is then signed by the Minister of Justice and published in the *Official Gazette*. Coming into force on the day of such publication, the new version of the law becomes binding, the old version is nullified, and no plea may be entered on the ground that the new version deviates from the old.¹¹

Religious Law

During the Mandate period each of the recognized religious communities — Moslem, Jewish, and Christian — had a quasi-autonomous organization with its own judicial system. These religious courts were granted jurisdiction in matters of personal status, a general term meaning actions regarding marriage, divorce, alimony, financial support, guardianship, legitimation of children, adoption of minors, wills, inheritance, and the administration of the property of absent or legally incompetent persons. The bases for rendering decisions in these courts were the religious doctrines, traditions, and customs of the respective religious communities.

The jurisdiction of the Moslem religious courts was exclusive in all matters of personal status involving Moslems who were Palestinian subjects. In the case of Jewish and Christian religious courts, jurisdiction was divided. For matters of marriage, divorce, alimony, and wills, it was exclusive for members of the community who were not

¹⁰ Section 2, Law and Administration (Further Provisions) Ordinance, 5708–1948, enacted July 1, 1948, *Laws of the State of Israel*, I, *ibid.*, 26–27.

¹¹ Law and Administration Ordinance (Amendment No. 4) Law, 5714–1954, passed on June 8, 1954, *Laws of the State of Israel*, VIII (5714–1953/54), 104–05. The Advisory Board consists of three members: a judge appointed by the President of the Supreme Court, the Attorney General or his representative, and a representative of the Israel Bar Association or the Hebrew University. The judge designated by the President of the Supreme Court is the chairman of the Advisory Board.

foreigners; but in all other matters of personal status, jurisdiction depended on the consent of all the parties to the action. Where no such consent was obtained, jurisdiction was exercised by the district courts. The district courts also had jurisdiction over matters of personal status of foreigners, other than Moslems, and applied the law of their national domicile. Foreigners — who were defined as other than Palestinian subjects, whether stateless or not — could confer jurisdiction on the religious courts by granting consent. Judgments of the religious courts were executable by officers and processes of the civil courts.

This special religious legal system existed during the Ottoman possession of Palestine and in the British Mandate period, and exists in Israel today. Inroads, though, are being made into the scope of the religious courts' jurisdiction, and their authority is narrowing.

Evolving Israeli Jurisprudence

Although Israel is gradually evolving its own jurisprudence displacing much of Ottoman and Mandatory elements, the laws and courts have not yet been substantially changed. British law has furnished the major portion on which Israel has built its system of justice. In court procedure, criminal law, torts, bills of exchange, rent restrictions, and bankruptcy, almost the entire jurisprudence is British. In civil rights and liberties and in the system of appeals to the Supreme Court, Israel has adopted many practices of the United States.¹² As during the Mandate period, there is no trial by jury, and judges are not popularly elected.

The Courts

The judicial structure in Israel consists of secular, religious, military, and tribal courts. With the exception of the military courts, these courts generally trace their origin through the British Mandate period to Ottoman rule. The courts constitute a separate and independent unit within the Ministry of Justice.

The Secular Courts

The secular courts have three levels. At the lowest are twenty-three magistrates' courts, six municipal courts, and eleven magistrates' courts for juveniles. Three district courts form the middle level; and the Supreme Court of Israel is the highest. These courts were created shortly

¹² Uriel Gorney, "American Precedent in the Supreme Court of Israel," *Harvard Law Review*, LXVIII (May, 1955), 1194-1210, and Uri Yadin, "Sources and Tendencies of Israeli Law," *University of Pennsylvania Law Review*, XCIX (March, 1951), 561-71.

after statehood.¹³ Magistrates' and district courts and a Supreme Court existed in the Mandate period; but the Palestinian Supreme Court was not a court of final appeal and was subservient to the Privy Council of Great Britain, whereas the Supreme Court of Israel was modeled after the Supreme Court of the United States and is a court of finality. In 1957, the Knesset passed the Courts Law consolidating all previous legislation dealing with the structure and functions of the secular courts.¹⁴

The geographical area of jurisdiction of the courts has been defined by statute as the whole of the territory of the State of Israel and also any part of Palestine which the Minister of Defense has proclaimed to be held by the Army of Israel.¹⁵ For the purpose of jurisdiction of the courts, any vessel or aircraft registered in Israel, regardless where situated, is considered part of the area of the State of Israel.¹⁶ For purposes of court jurisdiction and administration, the territory of Israel was divided into six parts known as the Jerusalem, Southern, Tel Aviv, Central, Haifa, and Northern Districts. The magistrates' and district courts are assigned to particular judicial districts.

*Magistrates' Courts.*¹⁷ Magistrates' courts are established by order of the Minister of Justice, who also determines their places of sitting and geographic areas of jurisdiction. Situated in Israel's main cities and villages, these courts deal largely with minor criminal cases, civil actions, property cases, and traffic offenses.

A magistrate's court may have assigned to it as many judges as the Minister of Justice decides. Most have three judges. When hearing a case, only one magistrate need sit to constitute a court. The sitting judge or the chief magistrate, however, may direct that the case be continued with a bench of three magistrates. In this event, the chief magistrate will designate the three judges. Apportionment of cases among the judges of a magistrate's court is made by the chief magistrate in consultation with the judges of the court.

Magistrates' courts possess limited jurisdiction in both civil and

¹³ Section 17 of the Law and Administration Ordinance, 5708-1948, provided: "So long as no new law concerning law courts has been enacted, the law courts existing in the territory of the State shall continue to function within the scope of the powers conferred upon them by law." Law and Administration Ordinance, 5708-1948, *ibid.*, 10.

¹⁴ Courts Law, 5717-1957, enacted July 23, 1957, *Laws of the State of Israel*, XI (5717-1956/57), 157-67.

¹⁵ Area of Jurisdiction and Powers Ordinance, 5708-1948, passed on September 16, 1948, *Laws of the State of Israel*, I, *ibid.*, 64.

¹⁶ Area of Jurisdiction and Powers Ordinance (Amendment) Law, 5716-1956, enacted February 14, 1956, *Laws of the State of Israel*, X (5716-1955/56), 31.

¹⁷ Sections 21-29, Courts Law, 5717-1957, *ibid.*, 161-63.

criminal matters. They hear civil claims — other than those relating to immovable property — involving an amount not exceeding 1,500 pounds (\$830). Claims and counterclaims concerning the possession, use, or partition of immovable property may be heard by a magistrate's court regardless of the amount or value involved. Misdemeanors, likewise, are tried by these courts. All judgments of magistrates' courts are appealable to the district courts.

*District Courts.*¹⁸ District courts are established by order of the Minister of Justice. Their number of judges, places of sitting and areas of jurisdiction are, likewise, fixed by the Minister's orders. Each district court has a president with one or more designated relieving presidents. A president may serve as president of two district courts; and a judge appointed to one district court may sit in another district court if the presidents of the two district courts concerned consent.

District courts serve as courts of first instance, and also as appellate courts hearing appeals from magistrates' courts. As courts of first instance, they try all cases involving felonies, the more serious misdemeanors, and all other civil and criminal matters not within the sphere of authority of the magistrates' courts. A civil counterclaim may be dealt with by a district court even if the matter or claim is within the jurisdiction of a magistrate's court. In addition, a district court may deal with any matter not within the exclusive jurisdiction of another court or tribunal, and also with matters within the concurrent jurisdiction of another court or tribunal as long as they are not being dealt with by such other court or tribunal. As courts of appeal, the district courts hear all appeals against decisions of the magistrates' courts.

Any decision of a district court trying a case in the first instance is appealable to the Supreme Court. On the other hand, a judgment by a district court in a case brought to it on appeal against the ruling of a magistrate's court is appealable to the Supreme Court only if the district court in its judgment authorizes such an appeal, or if the President of the Supreme Court so directs, or if another justice of the Supreme Court designated by the President of the Supreme Court to rule on whether an appeal should be permitted agrees to have the appeal heard, or if the Supreme Court itself decides to hear the appeal.

District courts may convene and deal with matters by a bench of either one or three judges. Trials for an offense punishable by death or by imprisonment for ten years or more must be conducted by a three-judge court. Similarly, appeals — except applications for interim and provisional orders and other interim decisions in appeals — require three judges. In addition, the president or a relieving president

¹⁸ Sections 11–19, *ibid.*, 160–62.

of a district court may direct that a matter be dealt with by three judges. In all other cases, district courts are composed of one judge. Which judge or judges will sit in a particular case and the time at which a district court will begin to deal with the case are determined by the president or a relieving president of the district court.

There are three district courts at the present time, situated in the cities of Jerusalem, Tel Aviv, and Haifa. The area of jurisdiction of each embraces two judicial districts. The Jerusalem District Court covers the Jerusalem and Southern Districts and is composed of a president, a relieving president, and seven judges. Encompassing the Tel Aviv and Central Districts, the Tel Aviv District Court is divided into two sections, a Civil and a Criminal Division, and consists of a president, two relieving presidents — one for each Division — and fifteen judges. The Haifa District Court comprises the Haifa and Northern Districts and is composed of a president, three relieving presidents and fourteen judges. To accommodate the residents of the communities located in the far northern and southern settlements and villages, the Haifa and Jerusalem District Courts travel away from their permanent seats to try certain cases as courts of first instance.

On May 13, 1952, the Knesset passed the Maritime Court Law, transferring the powers of the Supreme Court sitting as a Court of Admiralty to the District Court of Haifa and designating the latter as the Maritime Court. In its functions as the Maritime Court, the District Court of Haifa consists of a single judge, who may invite advisers from among a body of experts on admiralty law appointed by the Minister of Justice to take part in the proceedings but not in the passing of judgments. Not restricted to its ordinary territorial jurisdiction, the District Court of Haifa, while sitting as the Maritime Court, may hold session anywhere in the country if essential to the proceedings. Decisions of the Maritime Court are appealable to the Supreme Court. The registrars of the various district courts act as registrars of the Maritime Court. Regulations governing the procedure of the Maritime Court, appeals from its decisions, and the court fees are prescribed by the Minister of Justice.¹⁹

The Supreme Court of Israel. On June 24, 1948, the Provisional State Council enacted the Courts (Transitional Provisions) Ordinance,²⁰ which provided for a Supreme Court whose decisions would be final and whose judges were to be appointed by the Provisional Government on the recommendation of the Minister of Justice and subject to ap-

¹⁹ Maritime Court Law, 5712-1952, enacted May 13, 1952, *Laws of the State of Israel*, VI (5712-1951/52), 58-59.

²⁰ Courts (Transitional Provisions) Ordinance, 5708-1948, passed on June 24, 1948, *Laws of the State of Israel*, I, *ibid.*, 23-25.

proval by the Provisional State Council. Five justices were confirmed on July 22 of the same year; and the Court was inaugurated in Jerusalem the following September 14. It serves as an appellate court for the district courts in criminal and civil cases,²¹ and sits as the nation's high court of justice in matters affecting the personal rights and liberties of the people. It is also the regulator of national-local governmental jurisdiction and relations.

From the very beginning, arrears existed in the Supreme Court's calendar. A practice was introduced at first which involved the nomination of district court judges to serve as acting justices of the Supreme Court, but this resulted in dislocating the work of the lower courts. The only alternative was to enlarge the Supreme Court. This was done by the Knesset in 1950 and again in 1953. The Court was increased to seven and then to nine — eight associate justices, one of whom is a Permanent Deputy to the President of the Supreme Court, and the President of the Supreme Court who is the chief justice. The number of justices is fixed by resolution of the Knesset.²²

The Supreme Court sits in Jerusalem. At least three judges must be present for the Court to hold session. In certain cases, the President or Permanent Deputy may require a greater odd number of judges to sit; or once a case is begun the Court may direct a greater odd number of judges to join in. Applications for interim or provisional orders, interim decisions, and orders nisi²³ may be heard by a single judge; but the rejection of an application for an order nisi requires at least three judges. In hearing a petition for a writ of habeas corpus, the Supreme Court, sitting as the high court of justice, must hear the case within twenty-four hours and render its decision within one week. The assignment of judges to particular cases and the time the cases will be heard are fixed by the President of the Supreme Court. In any case in which the latter participates, he is the presiding judge; otherwise, the judge with the longest service presides.²⁴

The President of the Supreme Court or his Permanent Deputy may direct that the Supreme Court or a particular district court hold a retrial in a criminal case if it appears to him that any of the incriminating evidence produced in court was based on falsehood or forgery, that new evidence or facts have come to light in favor of the sentenced person, or that another person has been apprehended and convicted

²¹ Section 6, Courts Law, 5717-1957, *ibid.*, 158.

²² Section 2, *ibid.*, 157.

²³ An order nisi is an order issued by a court specifying a certain time period within which a required act must be performed and will be considered in force unless some legal step is taken in the interval to avoid or revoke the action, modify it, or alter it by further proceedings.

²⁴ Sections 1-5, Courts Law, 5717-1957, *ibid.*, 157.

for the commission of the crime in question indicating the innocence of the original defendant. Either the Attorney General or the sentenced person may request the retrial. If the latter has died, his widow, descendants, parents, brothers, or sisters may make the request. In a retrial, the Supreme Court or the designated district court may acquit or convict. In the event of conviction, the new sentence may not exceed the original penalty. Petitions for pardon or for reduction of a penalty are submitted to the President of Israel. If, in this connection, a question arises which, in the opinion of the Minister of Justice, merits consideration by the Supreme Court but cannot serve as grounds for retrial, the Minister of Justice may refer the question to the Supreme Court. The Supreme Court, in turn, will decide whether it will consider the question.²⁵

Sitting as the high court of justice, the Supreme Court may hear cases in which the grant of relief is deemed necessary in the interest of justice and which are not within the jurisdiction of any other court or tribunal. In this capacity, the Supreme Court may: (1) order the release of persons unlawfully detained or imprisoned; (2) order governmental officials to perform acts required of them by legislative enactments, or to call public officers to account for exceeding their authority; (3) restrain action by the public officials unlawfully elected or appointed; (4) order secular courts, tribunals or any judicial or quasi-judicial body or official, other than the magistrates' and district courts, to hear or refrain from hearing or continuing to hear a particular case, and to quash any proceeding taken or decision unlawfully given; and (5) order religious courts to hear a particular case in accordance with their powers, or to refrain from hearing or continuing to hear a case if the matter is not within their jurisdiction.

With the exception of the matter of religious courts' competence, these cases can be brought before the Court under four prerogative writs — habeas corpus, mandamus, certiorari, and quo warranto.²⁶

²⁵ Sections 8–10, *ibid.*, 158–60.

²⁶ A writ of habeas corpus is an order issued by a court most frequently to direct a public official holding a person under detention to bring the prisoner into court and inform the court as to the time and cause of arrest. The court then determines whether the detainee should be remanded to jail, be released on bail or recognizance, or unconditionally released. A writ of mandamus is an order issued by a court directing an individual, a corporation, or an inferior court to perform certain action which is required by virtue of his or its office or duty. A writ of certiorari is an order issued by a court requiring the review of the action taken by inferior courts or by public officers or agencies exercising judicial functions under law. A writ of quo warranto is an order issued by a court directing the holding of legal proceedings to determine the possession of title to public office or the right to exercise a franchise.

In the matter of jurisdiction of a religious court, the Supreme Court will not consider the case unless the petitioning person has raised the question of competence of the religious court at the earliest opportunity. If he has not been given a reasonable opportunity to raise the question before the religious court handed down its decision, the Supreme Court may void the proceedings taken or the decision made by the religious court.²⁷

As the nation's high court of justice, the Supreme Court is responsible for maintaining the proper division of jurisdiction between the national and municipal legislatures and between the national and local administrations, and also for protecting the rights of the people against arbitrary or illegal behavior by public officials. While the Supreme Court may not invalidate legislation passed by the Knesset as unconstitutional, it may nullify: (1) local ordinances enacted by municipal councils on the grounds that a city is legislating in an area which is the exclusive jurisdiction of the national Parliament; (2) national administrative regulations promulgated in implementation of Knesset legislation or local administrative regulations issued in enforcing municipal ordinances on the grounds that they violate the property or other fundamental rights of the people; and (3) decisions or other actions by public administrative officials on the grounds that their behavior is arbitrary or illegal. In examining into matters of national-local jurisdiction and the possible violation of individual rights by government, the Supreme Court either interprets legislation or determines whether public officials have adhered to proper policies and procedures laid down by the Knesset.

The Supreme Court of Israel is not bound by the decisions of the Palestinian Supreme Court, the Privy Council of Great Britain, or even its own prior decisions.²⁸ A decision of Israel's Supreme Court, however, binds all other secular courts in the land.²⁹

The Religious Courts

In addition to the regular courts, there are special Jewish, Moslem, and Christian religious courts whose existence extends back to the period of Turkish rule and which decide matters according to the doctrines of their respective religions. Under the British Mandate, these courts were continued with exclusive jurisdiction and authority

²⁷ Section 7, Courts Law, 5717-1957, *ibid.*, 158.

²⁸ See Yehezkiel Dror, "Some Recent Developments of the Doctrine of Precedent in Israel," in *Scripta Hierosolymitana*, ed. Benjamin Akzin, "Studies in Law," Vol. V (Jerusalem: The Hebrew University, 1958), 228-44.

²⁹ Section 33, Courts Law, 5717-1957, *ibid.*, 163.

over marriage, divorce, alimony, burial, and confirmation of wills. Civil marriage or divorce was then not permissible and, likewise, is not legal for Jew, Moslem, or Christian today.

Rabbinical Courts. The Jewish religious courts, known also as rabbinical courts, function under the Ministry of Religious Affairs. They have exclusive jurisdiction over members of the Jewish community, other than foreigners, in matters of marriage, divorce, alimony, burial, and confirmation of wills, and in cases involving inheritance and succession when both parties agree to their jurisdiction; and they exercise concurrent jurisdiction with the civil courts in the above matters if the cases involve foreigners who consent to the jurisdiction. In all other matters concerning the personal status of all members of the Jewish community, whether or not foreigners are parties to the cases, the religious courts have concurrent jurisdiction with the civil courts if the consent of all parties to the action is obtained, except that such courts may not grant a decree of divorce or marriage annulment to a foreign subject.³⁰

The Jewish religious courts consist of seven rabbinical courts of first instance and an appeals court.³¹ The former are located in major cities — Haifa, Jerusalem, Petach Tikvah, Rehovoth, Safed, Tel Aviv, and Tiberias. Appeals from these courts may be taken to the Grand Rabbinical Court of Appeals in Jerusalem. An appeal may not be taken from the Grand Rabbinical Court of Appeals to any civil authority. The religious courts have powers of summons resembling those of the secular courts.³² When dealing with matters within their jurisdiction, religious courts may summon any person to appear and testify before them or to produce documents required as evidence. A warrant of arrest may be issued to compel appearance; and a fine not exceeding 75 pounds (\$41.00) may be imposed on a person who refuses to answer a question put to him or to produce a document in his possession.³³

With the consent of the Chief Rabbis and in consultation with the Minister of Justice, the Minister of Religious Affairs prescribes the

³⁰ R. Gottschalk, "Personal Status and Religious Law in Israel," *The International Law Quarterly*, IV (October, 1951), 454-61, and Solomon Zeitlin, "Personal Status in Israel," *The Jewish Quarterly Review*, XLIX (October, 1958), 122-32.

³¹ Rabbinical Courts (Validation of Appointments) Law, 5712-1952, passed on June 17, 1952, *Laws of the State of Israel*, VI, *ibid.*, 62-63.

³² Section 2, Dayanim Law, 5715-1955, enacted May 16, 1955, *Laws of the State of Israel*, IX (5715-1954/55), 74. The word "dayanim" is the Hebrew plural for rabbinical judges.

³³ Religious Courts (Summons) Law, 5716-1956, passed on March 14, 1956, *Laws of the State of Israel*, X (5716-1955/56), 34-35.

rules for the administration of the rabbinical courts, and has designated one of the rabbinical judges to be responsible to him for their implementation.³⁴ The salaries and expenses of the rabbinical and other religious courts are paid by the state. In addition, the Religious Services Budget Law of 1949 provided for partial state subsidization of the activities of the Jewish and other religious communities in Israel.³⁵

*The Moslem Religious Courts.*³⁶ Moslem religious courts are called "sharia courts." Those which functioned under the Mandate were continued after the State of Israel came into existence. Four such courts of first instance and one court of appeal serve Israel's Moslem community. They are located at Acre, Nazareth, Jaffa, and the Central Region; and the Sharia Court of Appeal is in Jerusalem. With regard to the Moslems in Israel, these courts have exclusive jurisdiction over them in matters of personal status and have powers similar to those possessed by the Jewish rabbinical courts.

Other Religious Courts. Other recognized religious communities in Israel have their own religious courts. These communities include the Catholic, Protestant, Greek Orthodox, Melkite, Maronite, and Druze. Such courts have jurisdiction and powers over their respective religious communities similar to those of the Jewish and Moslem religious courts. In any case relating to personal status and involving persons of different religious communities, the President of the Supreme Court decides which religious court has jurisdiction.³⁷

Tribal Courts

The special tribal courts for the Bedouins which were established by the British during the Mandate period were officially taken over, with some changes, by the State of Israel. These courts, each consisting of three Bedouin judges, settle internal disputes according to tribal law, which is a combination of the Koran, custom, and judicial common sense. Presiding over each of the courts is a representative of the local military government. Not authorized to pronounce judgment, he sits only as a supervisor to see that orderly procedure is followed and that the cases which are not within the jurisdiction of the tribal courts are directed to their proper jurisdiction. The Bedouin

³⁴ Section 13, Dayanim Law, *ibid.*, 76.

³⁵ Jewish Religious Services Budgets Law, 5709-1949, enacted August 10, 1949, *Laws of the State of Israel*, III (5709-1949), 66-67.

³⁶ Sharia Courts (Validation of Appointments) Law, 5714-1953, passed on December 8, 1953, *Laws of the State of Israel*, VIII (5714-1953/54), 42-43.

³⁷ Art. 54, Palestine Order-in-Council, 1922, *Laws of Palestine*, *ibid.*, 2569.

judges, whose positions carry a great deal of local prestige, are rotated monthly and are paid by the military government authorities. Justice is meted out on the spot, and no lawyers are involved.

Civilian Administrative Tribunals

There are a number of administrative tribunals which function in a judicial-like manner but with jurisdiction and authority limited to a specific area of civilian administration. Among these are tenancy, anti-profiteering, and national insurance local and appeals tribunals. The tenancy tribunals were authorized in 1954 to adjudicate matters concerning rent, services, and repairs regarding dwelling houses and business premises and to deal with eviction cases. Such tribunals consist of a magistrate and two representatives of the public, one representing landlords and the other representing tenants, and have powers similar to those of a magistrate's court in a civil action. They may admit as evidence what would not be admissible in other courts; and their decisions are open to appeal and execution like decisions of magistrates' courts.³⁸

Special tribunals to prevent profiteering and speculation were established in 1951, consisting of three members, one of whom is a judge of the judicial court at which the tribunal is formed and two representatives of the public appointed by the Minister of Justice from lists of candidates submitted by the local authorities. Their jurisdiction is limited to economic offenses; and penalties may not exceed seven years imprisonment and a fine of up to 10,000 pounds (\$5,550). The procedure followed is that in force with regard to criminal cases in the judicial court at which the tribunal functions, and appeals are heard by the judicial court.³⁹

In 1953, the Knesset enacted the National Insurance Law providing for old-age, survivors', employment injury, and maternity insurance, and establishing local tribunals and an appeals tribunal to adjudicate claims for benefits under these insurance programs. The local tribunals consist of three members—one professional judge who is a magistrate or is qualified to be so appointed, and two representatives of the public appointed by the Minister of Justice on the recommendation of the Minister of Labor after consultation with the Council of the National Insurance Institute, the supreme authority which administers the insurance programs. The appeals tribunal is

³⁸ Tenants' Protection Law, 5714–1954, enacted April 7, 1954, *Laws of the State of Israel*, VIII, *ibid.*, 75–89.

³⁹ Prevention of Profiteering and Speculation (Jurisdiction) Law, 5711–1951, passed on February 5, 1951, *Laws of the State of Israel*, V (5711–1950/51), 27–32.

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composed of three district court judges or persons qualified to be so appointed, and its decisions are final. Such tribunals are not bound by the rules of evidence, and may weigh at their discretion the evidence presented.⁴⁰

Military Courts and Tribunals

Israel, like other nations, maintains a separate system of courts and law for the military forces.⁴¹ In addition, there are special military tribunals in militarily controlled areas which may try civilians for offenses of non-military nature, one of the most serious of such offenses being infiltration by Arab civilians.⁴² Until 1954 infiltrators were dealt with by military authorities according to military law. That year special military tribunals were established by a Knesset enactment which authorized such courts to try civilian infiltrators according to the general rules of evidence for the duration of the emergency. Known as Tribunals for the Prevention of Infiltration, these courts consist of one-member tribunals of first instance and a three-member tribunal for appeals, and may impose a prison term of five years, a fine of 5,000 pounds (\$2,750) or both. Defense counsel may be appointed by the accused or, if he fails to do so or request it, by the tribunal itself. Decisions of the appeals tribunal are final and non-appealable. Proceedings are conducted in public unless they decide, because of national security reasons, to try the case secretly. These special jurisdiction courts are statutorily limited in their existence to the state of the emergency. When the Knesset terminates the emergency, the law creating such tribunals will automatically expire.⁴³

The Judges

Judges of Secular Courts

From 1948, the year of statehood, to 1953, judges of the secular courts were appointed by the Minister of Justice. Promotions and dismissals of judges were determined, likewise, by him. On August 20, 1953, the Knesset passed the Judges Law,⁴⁴ which provided for all judges of the secular courts to be appointed by the President of Israel

⁴⁰ National Insurance Law, 5714-1953, enacted November 18, 1953, *Laws of the State of Israel*, VIII, *ibid.*, 4-35.

⁴¹ Military Justice Law, 5715-1955, passed on June 21, 1955, *Laws of the State of Israel*, IX, *ibid.*, 184-280.

⁴² Prevention of Infiltration (Offenses and Jurisdiction) Law, 5714-1954, passed on August 16, 1954, *Laws of the State of Israel*, VIII, *ibid.*, 133-37.

⁴³ Sections 16-34, *ibid.*, 135-36.

⁴⁴ Judges Law, 5713-1953, passed on August 20, 1953, *Laws of the State of Israel*, VII (5713-1952/53), 124-29.

on the recommendation of a nine-member Appointments Committee consisting of the President of the Supreme Court and two other justices of that Court, the Minister of Justice and one other Cabinet minister chosen by the Cabinet, two members of the Knesset elected in secret ballot by majority vote, and two practicing lawyers members of the bar selected by the Council of the Israel Bar Association and approved by the Minister of Justice. The Minister of Justice serves as chairman of the Appointments Committee; and the Committee may not act unless six of its members are present.

The Appointments Committee is convened by the Minister of Justice after he gives notice in the *Official Gazette* that a judge should be appointed. Candidates may be proposed by the Minister of Justice, President of the Supreme Court, or jointly by three members of the Committee; and approval requires a majority of those present and voting. The President of Israel must honor the Committee's approved candidates. Appointees make the following declaration before the President of the State: "I pledge myself to bear allegiance to the State of Israel and to its laws, to dispense justice fairly, not to pervert the law and to show no favor."⁴⁵ After the appointment of a judge is announced in the *Official Gazette*, it may not be disputed. The Committee may not select any person it wishes to serve as a judge in any court it decides. Qualifications for each level of the court structure were laid down by the Knesset in the Judges Law. To be appointed as a judge of a magistrate's court, a person must be inscribed in the Roll of Advocates or be entitled to such inscription, and must have been engaged for at least three years as a practicing lawyer, or in a judicial or legal function in the government service, or as a teacher of law in an accredited law school. To qualify for appointment as judge in a district court, a person must have served at least four years as a magistrate, inscribed or entitled to inscription in the Roll of Advocates, and been engaged for at least six years in any of the three capacities listed in connection with a magistrate. An appointee as justice of the Supreme Court must have held office as a judge of a district court for at least five years, be inscribed in the Roll of Advocates or entitled to such inscription, and have served at least ten years in any of the three capacities listed in the qualifications for a magistrate. An unusual provision of the Judges Law authorizes the Appointments Committee, by a three-fourths majority, to appoint an eminent jurist from anywhere in the world to be a justice of the Supreme Court of Israel without having to serve in any of Israel's lower courts for experience.

Heads of the various courts are appointed from among the courts'

⁴⁵ Section 11, *ibid.*, 126.

respective membership. Chief magistrates and presidents of district courts are appointed by the Minister of Justice in consultation with the President of the Supreme Court. The President of the Supreme Court and the Deputy President, on the other hand, are designated by the Appointments Committee. Judges enter office on the day of their declaration of allegiance; and their tenure ends only on death, resignation, retirement on pension, or removal. A judge may resign by submitting a letter of resignation to the Minister of Justice. The mandatory retirement age is seventy, unless the Appointments Committee determines that a judge's state of health prevents him from carrying on his functions and necessitates an earlier retirement.

Judges of Religious Courts

Judges of the various religious courts are appointed to serve only in the courts of their own religious denominations. These judges are administratively supervised by the Ministry of Religious Affairs. Basic legislation for the Jewish religious court judges governing appointment procedure, tenure, transfer, and disciplinary action was enacted by the Knesset in 1955.⁴⁶

The qualifications for the appointment of judges in rabbinical courts are set by regulations of the Minister of Religious Affairs with the consent of the Rabbinical Council. In general, the procedure for appointing rabbinical court judges resembles that for appointing secular court judges. They are appointed by the President of Israel on proposals by an Appointments Committee submitted to him by the Minister of Religious Affairs. The Appointments Committee consists of ten members—the two Chief Rabbis of Israel, two rabbinical court judges elected by the over-all body of rabbinical court judges, the Minister of Religious Affairs, one other Cabinet minister designated by the Government, two members of the Knesset elected by it in secret ballot, and two practicing lawyers named by the Law Council. Chairman of this Committee is the Minister of Religious Affairs, who convenes it after placing notice in the *Official Gazette* of the need for appointing one or more judges. Proposals may be made by the chairman, the two Chief Rabbis, or jointly by any three members of the Committee. A majority vote of those present and voting is required to support a proposal; and at least six members must be present for the Committee to act.

Before taking office officially, a rabbinical court judge must make the following declaration before the President of Israel and in the presence of the Chief Rabbi: "I pledge myself to bear allegiance to the State

⁴⁶ Dayanim Law, 5715-1955, *ibid.*, 74-79.

of Israel, to dispense justice fairly, not to pervert the law and to show no favor."⁴⁷ Tenure begins on the day of this declaration and does not terminate until death, resignation, retirement on pension, or removal from office. Religious judges reaching the age of seventy must resign, except in the case of a Chief Rabbi or a senior presiding judge whose retirement age is seventy-five.⁴⁸

Proceedings and Punishments

Proceedings

Judicial proceedings in the secular courts are modeled on British common law and not on Jewish Talmudic law. Under the former system, for example, every witness is sworn to tell the truth before testifying; while under the latter, a witness testifies without taking an oath. There is no jury system in Israel. The judge or judges decide all questions of law, fact, and sentencing. Trials are open to the adult public, except if the court deems it necessary to conduct part or all of the proceedings in closed session because of national security, protection of morality, or the best interest of a minor. In closed trials, strict prohibitions exist against unauthorized publication of the proceedings. To protect the safety of a party, witness, or anyone else mentioned during the proceedings, a court may prohibit any publication concerning such proceedings. In like manner, no one is permitted to publish anything concerning a matter pending in any court if the publication is calculated to influence the course or outcome of the trial.⁴⁹

In dealing with civil matters, every secular court has the power to grant relief as it sees suitable to the circumstances. Relief may be granted in the form of a declaratory judgment or an order compelling or prohibiting action. In the case of lack of jurisdiction, a court may transfer a matter to another court or tribunal; and the latter will deal with the case as if it had been brought before it in the first instance. Change of venue requires direction by the President of the Supreme Court or his Permanent Deputy. Where a bench of three or more judges is in disagreement, the view of the majority prevails. If there is no majority in support of any one view, the view of the presiding judge or, in a criminal case, the view which, in the opinion of the presiding judge, is most favorable to the accused person will prevail.⁵⁰

⁴⁷ Section 10, *ibid.*, 76.

⁴⁸ Section 12, *ibid.*, 76.

⁴⁹ Sections 38–42, Courts Law, 5717–1957, *ibid.*, 164–65.

⁵⁰ Sections 32–37, *ibid.*, 163–64.

Punishments

The general pattern of punishments, parole, and compensation for prison labor is prescribed by law.⁵¹ Except for treason, crimes committed by a Nazi or Nazi collaborator, and serious cases involving Arab enemy infiltration, capital punishment does not exist in Israel. A law abolishing the death penalty for murder was passed by the Knesset on February 16, 1954, replacing Mandate legislation.⁵²

In the cases of conviction for high treason and Nazi crimes, the death sentences must be confirmed by both the Minister of Justice and the President of Israel. In the cases of enemy infiltration, death sentences may be handed down only by the military courts. The courts are enjoined by law from imposing the death penalty unless the offense has been committed during a period in which armed hostilities were carried on by or against Israel.⁵³

Because of the constant threat to the country's existence, Israeli laws provide severe punishments for offenses against the security of the state. The intentional causing of war or committing of an act calculated to bring war about is treason, and the penalty is death or life imprisonment. Deliberately assisting the enemy in war against Israel also is a treason. These involve intentional overt acts to betray the state to the enemy. Espionage is, likewise, a serious offense. Delivery of information to the enemy can bring a ten-year term; and if the intention is to impair the state's security, the penalty is imprisonment for life.⁵⁴

Israel's pattern of punishments reflects considerably the experience of Jews in the 1930's and 1940's at the hands of Germany. Nazi and genocide⁵⁵ crimes are considered equally reprehensible and punishable as treason; and whipping as a punishment is forbidden.⁵⁶

⁵¹ Penal Law Revision (Modes of Punishment) Law, 5714-1954, enacted September 8, 1954, *Laws of the State of Israel*, VIII, *ibid.*, 206-12.

⁵² Penal Law Revision (Abolition of Death Penalty for Murder) Law, 5714-1954, enacted February 16, 1954, *Laws of the State of Israel*, VIII, *ibid.*, 63.

⁵³ Section 6, Penal Law Revision (State Security) Law, 5717-1957, passed on July 31, 1957, *Laws of the State of Israel*, XI, *ibid.*, 187.

⁵⁴ Penal Law Revision (State Security) Law, *ibid.*, 186-95.

⁵⁵ The Crime of Genocide (Prevention and Punishment) Law, 5710-1950, passed on March 29, 1950, *Laws of the State of Israel*, IV, *ibid.*, 101-02. The crime of genocide in Israel is severely punishable, originally by death until capital punishment was abolished. The law was enacted to implement internally Israel's ratification of the Convention on the Prevention and Punishment of the Crime of Genocide adopted by the United Nations General Assembly on December 9, 1948.

⁵⁶ Section 1, Punishment of Whipping (Abolition) Law, 5710-1950, enacted July 25, 1950, *Laws of the State of Israel*, IV, *ibid.*, 140.

Minister of Justice

The Minister of Justice performs several functions within the judicial system similar to those carried out by the British Lord Chancellor and Attorney-General. British law, which does not provide for a Minister of Justice, assigns the responsibilities of judicial appointments and administration to the Lord Chancellor and the functions of representing the Crown in legal proceedings and of conducting Crown prosecutions to the Attorney-General. Combining the responsibilities of these two officials, Israel's Minister of Justice represents the state in legal proceedings concerning either civil or criminal matters and serves as public prosecutor.

A major difference in the Israeli and British legal systems exists in regard to the religious courts. There are no such courts in Great Britain, nor is there a Minister of Religious Affairs. Since Israel has both secular and religious courts and also a Minister of Justice and a Minister of Religious Affairs, a division of directorial responsibility had to be provided for. Accordingly, the Minister of Justice is charged with the responsibility of implementing the laws governing the secular courts, and the Minister of Religious Affairs supervises the religious courts. With regard to the military courts, as in Great Britain and other parliamentary systems, the Minister of Defense implements the laws relating to such courts.

Israel's secular courts, in effect, constitute a separate and independent unit within the Ministry of Justice, with a Director of Courts responsible to the Minister of Justice for their administration. Yet to the extent that the procedures and practices of the secular courts have not been prescribed by law, the Minister of Justice may promulgate rules and regulations governing such action. In its public prosecution function, the Ministry of Justice provides prosecutors to represent the state before the secular courts in criminal and civil cases. The Ministry also assigns prosecutors to represent the municipalities in cases involving the enforcement of local laws, ordinances and regulations.

The Rule of Law

While it is the Government's function, administratively, to enforce the laws, it is the courts' responsibility, legally, to see that enforcement is properly effected and without abuse of authority. If administrative enforcement agencies interpret any law incorrectly, the courts have the duty of invalidating such regulation or action. Israel inherited from the British Mandatory authorities in Palestine the right of both

the individual and the state to appeal to the higher courts. In its yet brief history, the Supreme Court has emerged as a primary protector of the individual against arbitrary administrative action and improper interpretation of the laws, and also as guardian of the state in the lawful exercise of its authority.

Not only does the Supreme Court have the power to order a Cabinet minister to show cause why a certain action should have been taken or not taken, but if the Court is not satisfied that the ruling or decision made by a public official or the action taken by a civil servant is lawful, or that administrative discretion is reasonable, it can nullify such judgment or action. After a recent visit to Israel, United States Supreme Court Justice William O. Douglas observed: "The legislative and executive branches of government do not have free rein. The Supreme Court of Israel sits in review of their actions."⁵⁷ Justice Douglas was not entirely accurate, however, in stating that action of the legislative branch is subject to Supreme Court review. In Israel, the Knesset is supreme, having primary and unlimited authority to legislate; and the Supreme Court cannot invalidate any statute enacted by the Knesset. The Supreme Court does have the power, though, to make determinations as to the validity of legislation enacted by the municipal councils and of interpretations of Knesset statutes by administrative agencies. In this respect, Israel's Supreme Court has followed the precedent of the Palestinian Supreme Court and British practice.

The Supreme Court has the authority to subpoena public officials to testify concerning their conduct. This authority was granted to the Supreme Court of Palestine in Mandate days and was carried over by the State of Israel. On a number of occasions the Supreme Court has reversed rulings of Cabinet ministers. One of the first decisions of the Court was to enjoin a Cabinet officer who exceeded his authority as set by law. This was in the case of an Arab who had been arrested and held incommunicado for several weeks. Holding the arrest illegal, the Supreme Court declared: "The Government is subject to the law in the same manner as any citizen of the state."⁵⁸

Absence of a formal constitution has not impeded the Supreme Court in cases involving individual rights. The Court has followed the personal democratic rights of Anglo-American jurisprudence. As a result, an unwritten "Bill of Rights" is developing in Israel patterned after British and American legal theory and application. In general, the Anglo-American concept of the rule of law governs the relations between state and private individual, and between private individuals;

⁵⁷ William O. Douglas, *Strange Lands and Friendly People* (New York: Harper & Brothers, 1951), p. 273.

⁵⁸ *El-Kharbutli v. Minister of Defense*, *ibid.*, 106.

and the courts operate in complete independence of Government control.

One of the elements of the Anglo-American concept of the rule of law is that the state, sovereign though it is, acting through its Government, can commit a civil wrong for which it must provide some form of remedy or redress, but does not admit of criminal wrongs. Accordingly, Israel, like all other sovereign states, does not acknowledge that it can commit a crime, but does provide for civil liability. For the latter purpose, the state is regarded as a corporate body and is civilly liable for negligence in connection with any act performed by its officers or agents within the scope of their lawful authority. It is, similarly, liable civilly for negligence in the use and operation of state-owned property. On the other hand, the state is not liable for defamation, acts in the course of wartime operations, or for death or injury of persons in consequence of their military service. A statute of limitations was passed by the Knesset in 1956 fixing the period of limitation of an action for a civil wrong at four years from the day on which the cause of action arose.⁵⁹

Attempts to Improve the Judiciary

The continual increase in population and the growing burden placed on the judiciary by Knesset legislation have jammed the courts with huge backlogs of cases. In the decade 1949–1959, the number of cases filed in all the courts rose from 71,110 to 204,651.⁶⁰ Several steps have been taken to reduce arrearages. New courts have been established in areas where the greatest population increases have occurred and which are distant from existing courts. Hearings have been extended into the afternoons; and new procedures have been introduced for hearing cases. A basic procedural revision was instituted in 1958 transferring the holding of preliminary investigations from the magistrates' courts to the district courts, and reducing the number of preliminary investigations by restricting these to cases of felonies in which the maximum penalty is at least ten years imprisonment.⁶¹

⁵⁹ Civil Wrongs (Liability of the State) Law, 5712–1952, passed on August 26, 1952, *Laws of the State of Israel*, VI, *ibid.*, 147–48, and Section 68, Civil Wrongs Ordinance (Amendment No. 2) Law, 5716–1956, enacted July 18, 1956, *Laws of the State of Israel*, X, *ibid.*, 74.

⁶⁰ *Israel Government Year-Book*, 5720 (1959/60) (Jerusalem: The Government Printer, 1960), p. 347.

⁶¹ The Criminal Procedure Amendment (Investigation of Felonies and Causes of Death) Law, 5718–1958, enacted January 27, 1958, *Laws of the State of Israel*, XII (5718–1957/58), 66–72.

Another measure for improving the judicial process was the introduction of registrars to take the place of judges in dealing with registration matters. This relieved the judges of a heavy workload which had been their responsibility since 1936. While they may or may not be or have been judges, registrars must have the same qualifications as judges; and their appointments require the consent of the President of the Supreme Court. If they are not judges, registrars may not exercise criminal jurisdiction.⁶²

A further step was the simplification of procedure for the magistrates' courts in criminal cases and the expedition of hearings in such matters. An accused person is permitted to plead guilty or not guilty in writing or through his lawyer without having to make a personal appearance in court. If the accused pleads guilty, the court may convict him and impose a penalty in his absence. A sentence of imprisonment, though, may be imposed only in the defendant's presence. If the accused pleads not guilty, a date is set for a hearing at which he must appear. An additional change in rules permits the court, in the event the accused does not appear in person and has not pleaded to the charge either in writing or through a lawyer, to deem generally the defendant as having pleaded not guilty. Where a judgment has been given in such circumstances, the court making the decision may set it aside if the convicted person applies for this action to the same court within fifteen days. In the case of an accused person who has pleaded not guilty in writing or through a lawyer and then fails to appear on the day fixed for continuation of the trial, the court may nevertheless render a decision in his absence.

One of the most important reforms instituted was the authorization to serve a summons to court by registered mail. Confirmation of delivery is considered legal service of the summons. Another significant endeavor to improve the legal system has been the codification effort involved in the law of succession and law of evidence projects. Both projects were the subjects of study by the Harvard Law School-Israel Cooperative Research for Israel's Legal Development established in 1952. Other projects under way have been a law of domestic relations, a land law, a penal code, and a companies' law, all of which are being developed under the direction of the Ministry of Justice's Department of Legal Planning.⁶³

⁶² Sections 30-31 and 44, Courts Law, 5717-1957, *ibid.*, 163 and 165.

⁶³ Uri Yadin, "The Proposed Law of Succession for Israel," *The American Journal of Comparative Law*, II (Spring, 1953), 143-55. For a detailed discussion on codification of Israeli law, see Benjamin Akzin, "Codification in a New State: A Case Study of Israel," *ibid.*, V (Winter, 1956), 44-77.



SUGGESTED READINGS

- Baker, Henry E. *The Legal System of Israel*. Tel Aviv: Israel Publications Ltd., 1955.
- Cheshin, Shneour Zalman. "Justice in a New State," *The Record of the Association of The Bar of the City of New York*, X (January, 1955), 3-16.
- Cohen, Haim H. "An Introduction into the Law of Israel," *New York Law Forum*, V (January, 1959), 1-8.
- Rosenne, Shabtai. *The Constitutional and Legal System of Israel*. New York: Israel Office of Information, 1957.

9

Citizenship

Although the State of Israel was established on May 4, 1948, legislation creating Israeli nationality was not enacted until four years later on April 1, 1952, and did not go into effect until the following July 14.¹ In the intervening period, Israel technically had no citizens, either native-born or naturalized. Since Palestinian citizenship, based on the Palestinian Citizenship Orders of 1925–1942,² was not officially repealed until the Nationality Law was passed, a meaningless Palestinian citizenship remained on Israel's statute books despite the termination of the British Mandate.

With the desire of offering a refuge to persecuted and displaced Jews and of creating an overwhelmingly Jewish majority in the new State, Israel — in line with the Zionist concepts of a historic right to and bond with the Holy Land and of viewing all Jews who reside elsewhere as in exile — passed a unique law, the Law of Return,³ granting special status to Jews everywhere outside the country. Enacted by the First Knesset on July 5, 1950, this law ensures all Jews everywhere the legal right to immigrate to Israel,⁴ unless the Minister of the Interior deems that a particular immigrant is acting against the Jewish people, or is likely to endanger the public health or welfare or the security of the state.⁵

¹ Nationality Law, 5712–1952, passed on April 1, 1952, *Laws of the State of Israel*, VI (5712–1951/52), 50–53.

² *Palestine Gazette*, No. 1210, Supplement II (July 16, 1942), 1193.

³ Law of Return, 5710–1950, enacted on July 5, 1950, *Laws of the State of Israel*, IV (5710–1949/50), 114.

⁴ Section 1, *ibid.*, 114.

⁵ Section 2, *ibid.*, 114, as amended by Law of Return (Amendment) 5714–1954, passed on August 23, 1954, *Laws of the State of Israel*, VIII (5714–1953/54), 144. This amendment, in effect, modified the open door immigration policy and barred the chronically ill, known criminals and security menacers. The religious parties opposed the amendment, contending that every Jew anywhere in the world has the inalienable right to

The Law of Return, however, did not grant citizenship to any one. Residents who were nationals of other countries held their original nationalities, while those who were Palestinian nationals under the Mandate had been technically the citizens of no state at all. Since voting in the elections for the Knesset in 1949 and 1951 had been based on residence and not nationality, its exercise did not grant citizenship or signify any change in nationality status.

Debate in the Knesset on the Nationality Bill

Deluged with a myriad of problems, including the exceptional pressures of a huge immigration and the fear of Arab infiltration and disloyalty, the Knesset postponed dealing with the nationality issue until July, 1950. At that time, a draft bill was introduced and passed its first reading, and was sent to the Constitution, Law and Justice Committee for final drafting. Before the draft bill could be submitted for its second reading the First Knesset was dissolved, and the bill had to be reintroduced in the Second Knesset in November, 1951.

Two of the draft bill's twenty clauses provoked heated discussion during the debates. One was a proposal to grant citizenship automatically to all residents who were citizens of Mandated Palestine before November 30, 1948, and who were included in the national registration of March 1, 1951, for voting in the election to the Second Knesset, and to all those who legally arrived or would arrive in Israel as immigrants under the Law of Return who were registered as of a certain date. Under these conditions, Arab residents who could not legally prove, with documentary records, that they had been Palestinian nationals before November 30, 1948, or that they had entered the country legally, would have a difficult time complying with the conditions for citizenship. That this was one of the intentions of the bill's framers, in order to curb the increasing illegal entry of Arabs from bordering states, was indicated by the remarks, during the Knesset debate, of the Minister of the Interior, who had introduced the bill. "I very much appreciate the desire to protect the citizen," he asserted, "but something else is also in need of protection, and that is the state."⁶ Nevertheless, Mapam, the Communists, and the Arab members of the Knesset protested that the nationality bill would deny citizenship to many Arab residents who could not legally prove their

settle in Israel. On the other hand, the secular parties generally favored the Amendment as safeguarding the state.

⁶ *Israel Speaks*, V (December 7, 1951), 1.

prior residency, and it was therefore unfair to these native residents of Israel.

The other clause of the draft bill which aroused much discussion provided that the acquisition of Israeli citizenship did not automatically cancel or require surrender of previously held nationality. Supporters of dual nationality argued that it was desirable because integration was an uncertain and a lengthy process in which immigrants should not be coerced, but should be given the right to leave Israel if they wished or could not adjust themselves. By being granted Israeli citizenship, yet retaining their former nationality, settlers would be freely encouraged in their adjustment, whereas the adoption of a strict, narrow policy of excluding any previous nationality would retard immigration. Furthermore, those who favored dual citizenship maintained, many of the immigrants possessed property in their former countries, and the transfer of these assets to Israel would take a number of years. They insisted also that Jewish immigration from Anglo-Saxon countries would be discouraged if it would be required of such immigrants that they surrender their nationality. By permitting dual nationality, proponents of the bill contended, the prohibition by a number of European countries of voluntary surrender of citizenship could be circumvented.

Submitted for a second reading, after it was redrafted in Committee, the bill was enacted on April 1, 1952, by a vote of 43 to 17. The bill as passed contained the two controversial provisions.

Acquisition of Citizenship

Under the law, Israeli nationality is acquired by birth, immigration, residence, or naturalization.⁷

Citizenship by Birth

Persons born in the country before the establishment of the state acquire nationality from the day of statehood — May 14, 1948 — while persons born in Israel after that date acquire citizenship as from the day of birth. A child born while one or both of his parents are Israeli nationals acquires citizenship as from the date of birth. In the case of a child who is born after his father's death, if the father was an Israeli national at the time of death, the child will acquire citizenship as from the day of birth.⁸

There is nothing in the law concerning the place of birth of a person acquiring Israeli citizenship by birth; nor does the law make any

⁷ Section 1, Nationality Law, *ibid.*, 50.

⁸ Sections 2-4, *ibid.*, 50-51.

reference to the manner of acquiring nationality by the person's father or mother. It would appear, therefore, that a person born to a father or mother who is a citizen of Israel will be an Israeli national from birth regardless of where he was born or in what manner his father or mother acquired Israeli citizenship.

Citizenship by Immigration

Citizenship by immigration is based on the Law of Return, which views Jewish immigrants as returning from exile. It is granted under the Nationality Law to persons who came into the country as settlers before statehood, with effect from the day of statehood. It is granted also to persons who immigrate to Israel after statehood, with effect from the day of arrival. It is granted, too, to persons who come not as immigrants, but who, after arrival, express the desire to settle in Israel and have received their immigrant's certificate, with effect from the day of issuance of the certificate.⁹

Citizenship by Residence

Nationality by residence was granted to persons who were not born in the country but who were citizens of Mandated Palestine, provided they were registered on March 1, 1952, as residents of Israel under the Registration of Inhabitants Ordinance,¹⁰ were inhabitants of Israel on July 14, 1952, when the Nationality Law went into effect, and were residing in Israel legally between May 14, 1948, and July 14, 1952. Persons fulfilling these three conditions would acquire citizenship from the day of statehood.¹¹

Citizenship by Naturalization

A person desiring to acquire Israeli citizenship by naturalization must meet six conditions. He must be at least eighteen years of age. He must be a resident of Israel when he applies, and have been living there for three of the five years preceding the date of application. He must be entitled to reside permanently in Israel, and either have settled or intend to settle in Israel. In addition, he must have some knowledge of Hebrew, and have renounced his former nationality or have proved he will cease to be a foreign national when he becomes a citizen of Israel. Applicants who, in the opinion of the Minister of the Interior, have met all these requirements will be granted certificates of naturalization upon their declaration that they will be loyal nationals of Israel.

⁹ Section 2, *ibid.*, 50.

¹⁰ Registration of Inhabitants Ordinance, 5709-1949, enacted February 3, 1949, *Laws of the State of Israel*, II (5709-1948/49), 103-06.

¹¹ Section 3, Nationality Law, *ibid.*, 51.

Naturalization becomes effective from the date of this declaration.¹²

These are the requirements that must be met by nearly all naturalization applicants. There are two types of applicants, however, who may acquire Israeli nationality by naturalization without having to comply with all six conditions. They are, first, those persons who after November 29, 1947,¹³ have served in Israel's regular military forces or in any other capacity that the Minister of Defense has proclaimed in the *Official Gazette* to constitute military service for the purposes of the Nationality Law, provided they have been duly released from this service. The second type embraces those persons who have lost one or more offspring in the military service. People of either of these categories may become naturalized citizens by complying with only one of the six conditions — that of having settled or intending to settle in Israel. The requirement that an applicant have a knowledge of the Hebrew language is not invoked in the case of a person who was a citizen of Mandated Palestine immediately prior to May 14, 1948, the day of statehood. Another exemption is permissible in connection with the application of a foreign national who, though entitled to Israeli citizenship by immigration under the Law of Return, had previously declared that he did not desire to become a citizen. Such an applicant need not have resided in Israel for three out of the five years preceding his application.¹⁴

The above exemptions are specific ones applicable in individual cases. There is, in addition, a general exemption authority vested in the Minister of the Interior who, responsible for the implementation of the Nationality Law, may exempt an applicant for naturalization from any one or more of the prescribed requirements, except the conditions of being entitled to reside permanently in Israel and having settled or intending to settle in Israel. The only requisite is that there must be, in the opinion of the Minister of the Interior, a special reason justifying the exemption.¹⁵

Marriage and Nationality

Although naturalization confers automatic citizenship upon the minor children of naturalized persons, nationality cannot be acquired by marriage. However, the husband or wife of an Israeli national or of an applicant who has met the requirements for naturalization may obtain nationality by naturalization even though he or she is a minor

¹² Section 5, *ibid.*, 51.

¹³ This is the date of the Resolution of the United Nations which partitioned Palestine and created the State of Israel.

¹⁴ Sections 2 and 6, Nationality Law, *ibid.*, 51–52.

¹⁵ Section 6, *ibid.*, 52.

or does not fully comply with the conditions for naturalization. A minor is defined by the law as a person under eighteen years of age.

While the husband or wife of a person who becomes a citizen by naturalization does not thereby acquire citizenship automatically, the person's minor children do become naturalized citizens by virtue of their parent's naturalization. For those children under eighteen years of age who reside in Israel who are not Israeli nationals, and whose parents have died or are not known or are not in Israel, special provision is made for their naturalization. The Minister of the Interior may grant them a certificate of naturalization on such conditions and with effect from such date as he may see fit.¹⁶

Loss of Citizenship

Loss of citizenship may be incurred only by naturalized citizens in one of two ways, either by revocation or by renunciation. No provision exists for depriving persons of their nationality against their will if they acquired citizenship in any manner other than by naturalization.¹⁷

Revocation of Nationality

In the case of revocation, only the district courts may accomplish this upon the application of the Minister of the Interior. Grounds for revocation are the submission of false particulars in the application for naturalization; residence abroad for seven or more consecutive years without attempting to maintain a substantial connection with Israel; or the commission of an act constituting a breach of loyalty against the State of Israel. Appeals may be taken from the district courts to the Supreme Court. The courts may decide that the cancellation shall apply also to the children of the person whose naturalization is being revoked, provided the children acquired Israeli nationality by naturalization and are residing outside of Israel.¹⁸

Renunciation of Citizenship

Renunciation of Israeli nationality, on the other hand, is subject to the consent of the Minister of the Interior, and may be declared only by Israeli nationals eighteen years of age or over whether or not they are residents of Israel. In the case of residents, there must be a justifiable reason. The Israeli nationality of a minor terminates on both his parents' renunciation of their Israeli citizenship; but in the case of

¹⁶ Sections 7-9 and 13, *ibid.*, 52-53.

¹⁷ Sections 10-11, *ibid.*, 52.

¹⁸ Section 11, *ibid.*, 52.

residents, the Minister of the Interior may, if there is a special reason, refuse to consent to the termination of the minor's nationality. Moreover, so long as one parent retains his Israeli citizenship, a minor's Israeli nationality may not be terminated by virtue of the other parent's renunciation.¹⁹

Dual Citizenship

Acquisition of Israeli citizenship, except by naturalization, does not require or depend upon renunciation of prior nationality. A citizen of Israel who is a national of another country which allows its nationals to hold dual citizenship may therefore possess citizenship in two states, although insofar as Israeli law is concerned, he will be considered a national only of Israel.²⁰ During the Knesset debates on the nationality bill, a number of legislators interpreted the Law of Return to mean that any Jew settling in Israel, on acquiring Israeli nationality, would automatically discard any previously held nationality. This group opposed dual citizenship; and, pointing to the United States as an example, it argued that the latter's prohibition of multiple citizenship for immigrants did not retard immigration.

Compromise solved the burning issues. The principle of dual nationality was adopted, but settlers from countries prohibiting dual citizenship would be permitted to retain their nationality through an "opting out" procedure. This procedure calls for positive, formal action by an immigrant who desires to retain his nationality and not acquire Israeli citizenship. A special form waiving the right to Israeli nationality must be filled out, signed and processed.²¹ Otherwise, if he failed to file this waiver, the Jewish immigrant from a country forbidding dual nationality would automatically acquire Israeli citizenship; and if, in the case of an American citizen, he should perform any positive act which would be legal cause for loss of his previous nationality, such as entering the military service of Israel or voting in an Israeli political election, he would forfeit his American nationality. The law of the United States provides that loss of citizenship will result from performance of such positive acts rather than from mere failure to "opt out."²²

American nationals living in Israel at the time the Nationality Law

¹⁹ Section 10, *ibid.*, 52, as amended by Section 1, Nationality (Amendment) Law, 5718-1958, enacted March 3, 1958, *Laws of the State of Israel*, XII (5718-1957/58), 99.

²⁰ Section 14, Nationality Law, *ibid.*, 53.

²¹ Section 2, *ibid.*, 50-51.

²² Section 356(a), Immigration and Nationality Act, Public Law 414, 82nd Congress, 66 Stat. 163 (June 27, 1952). This Act is popularly known as the McCarran-Walter Immigration and Nationality Act.

was passed who desired to retain their United States citizenship were required to "opt out" before July 14, 1952, when the law became effective. On December 24 of that year, the McCarran-Walter Immigration and Nationality Act went into effect in the United States, and hundreds of American nationals serving in Israel's armed forces faced the loss of their American citizenship, unless the Secretaries of State and Defense of the United States specifically authorized in writing such foreign military service.²³ Abba Eban, Israel's Ambassador to the United States, sought this permission, but was informed that the Secretaries of State and Defense did "not contemplate the granting of authorization to United States citizens for their entry into the armed forces of any foreign state."²⁴

Service in foreign armies by American nationals living abroad had been permitted under the previous American nationality law, provided no oath of allegiance were taken to any foreign country. The Israeli Government had been careful therefore, prior to the enactment of the McCarran-Walter Act, in its conscription into the armed forces of American male residents between eighteen and forty-nine in age and women from eighteen to thirty-six without children not to force any of them to surrender American citizenship, and had allowed Americans to sign declarations instead of taking oaths. However, the current American law is much stricter and is explicit with regard to service in foreign armies. Failing in its efforts to find a way for Americans who reside in Israel to perform military service in spite of the terms of the McCarran-Walter Act, the Israeli Government decided on December 28, 1952, not to conscript any American citizens into its armed forces.

Opposition to the Nationality Law

The major opposition to Israeli nationality legislation came mainly from Mapam, the Arab parties, and the Communists. Their opposition was aimed not at the dual nationality provisions, which at worst might create legal and administrative problems and perhaps discourage immigration of Jews from the United States, but at inherent aspects of discrimination against Arab inhabitants. This could threaten to become a serious problem causing friction, bitterness and, possibly, violence.

That the Nationality Law essentially discriminated against Arab residents of Israel, many of whom had lived all their lives in the Holy Land and whose ancestry in that country might be traced back cen-

²³ Section 349, *ibid.*

²⁴ *New York Times*, November 17, 1952, p. 12.

turies, cannot honestly be denied. Although Arabs, as well as Jews, could acquire citizenship automatically, the Jew need but have been born in Palestine or Israel or have immigrated to Israel prior to July 14, 1952; whereas, in the case of the Arab, he must fulfill such additional requirements — furnishing the necessary documentary proof — as prior Palestinian citizenship, previous residence in Israel, and compliance with the Registration of Inhabitants Ordinance.

Other criticism was leveled against provisions of the Nationality Law which required non-Jewish immigrants to wait five years before naturalization. Such opposition fundamentally questioned the Law of Return, which gave only to Jews the legal right to immigrate to Israel and which formed the basis for automatic extension of nationality to Jewish immigrants.

Defense of the Nationality Law

In defense of the Nationality Law, its proponents have argued that, while armistice agreements exist between Israel and the surrounding Arab nations, no peace treaties have been signed; and, therefore, the latter are technically still at war with Israel. Under such circumstances, security considerations dictate a cautious approach insofar as the law applies to Arabs. Nevertheless, on July 14, 1952, despite prediction by some opponents that less than 10 per cent of Israel's Arabs would be able to meet the legal requirements for citizenship, the overwhelming majority of the Arab inhabitants of Israel at the time did acquire Israeli nationality and with little or no difficulty.

Significance of Israeli Nationality

For the first time since the conquest of ancient Israel by Rome in the First Century, A.D., an Israeli nationality exists again. By linking citizenship with the Law of Return, the modern State of Israel has given legal recognition to "the historical connection of the Jewish people with Palestine." Every Jew settling in Israel "is considered a returning citizen."²⁵ While the Nationality Law is an especially significant historical event to the Jewish people, it poses a serious problem with regard to the Arab refugees who, as nationals of Palestine, fled the country during the war between the Arabs and Jews in 1948 and may be returned in part as a condition of peace between Israel and the Arab nations.

²⁵ State of Israel, *Facts and Figures* (New York: Israel Office of Information, 1955), p. 16.



SUGGESTED READINGS

- Margalith, Haim. "Enactment of A Nationality Law in Israel," *The American Journal of Comparative Law*, II (January, 1953), 63-66.
- Warsoff, Louis A. "Citizenship in Israel — A Comment," *New York University Law Review*, XXXIII (June, 1958), 857-61.

• 10 •

Civil Liberties and Civil Rights

There is no formal “bill of rights” or any other form of charter in Israel guaranteeing civil liberties and civil rights. Neither are many of the basic liberties and rights of the Israeli citizen laid down in any statute of the Knesset or of the British Mandatory authorities. Yet, with several exceptions, which are discussed later in this chapter, Israel generally enjoys the civil liberties and civil rights that are traditional in the Western democracies; and these are derived primarily from the principles of British common law embodied in the legal system in Palestine during the British administration with a substantial degree of reliance on American judicial decisions in cases involving infringement of liberties and rights of the individual.

The United Nations General Assembly Resolution of November 29, 1947, providing for the partition of Palestine, generally asserted that all persons must be guaranteed “equal and non-discriminatory rights in civil, political, economic, and religious matters and the enjoyment of human rights and fundamental freedoms, including freedom of religion, language, speech and publication, education, assembly, and association.”¹ In a separate chapter on civil liberties and civil rights, the Resolution spelled out in detail the guarantees which the State of Israel was required to provide.² In its Declaration of Independence, the State of Israel proclaimed that it “will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective

¹ Section B. 10. (d), Resolution 181 (II), *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947*, A/519, January 8, 1948), 135.

² Section C, Chapter 2, *ibid.*, 137.

of religion, race, or sex; it will guarantee freedom of religion, conscience, language, education, and culture; it will safeguard the Holy Places of all religions; . . ."³

In the absence of a written constitution containing a bill of rights, the courts, Knesset, and press have assumed the role of defenders of the liberties and rights of individuals. These include such fundamental freedoms as: speech and press; religion; political organization, assembly and petition; travel at home and abroad; and labor and management association and collective negotiation; and such basic rights as: equality; rest; voting; brief detention, legal representation and public trial; resistance to unlawful search and arrest; and suing the Government. The Supreme Court, also, has been functioning with an independence similar to that of the Supreme Court of the United States, especially in matters involving civil liberties and civil rights.⁴ In addition to this redress in the courts, any serious overstepping by the police or other enforcement agencies beyond the normal, regular limits of restraint or authority is taken up by the press and becomes the subject of sharp complaint also in the Knesset.

As in Western democracies, civil liberties and civil rights in Israel are not absolute and must be so exercised as not to infringe on other freedoms and rights, to endanger the security of the state, or to impair the morals, health, or welfare of the people. The state may punish such abuses and take measures to prevent further violations. These two factors — the security of the state and the police powers exercised by the Government in the interest of public safety, health and welfare — are the primary elements limiting the civil liberties and civil rights of the individual in Israel.

The security of the state is of paramount importance. If official action in this realm is within the legal and proper exercise of authority, the courts will usually uphold the Government. The terrorist faces severe punishment, including deprivation of not only his

³ Declaration of the Establishment of the State of Israel, *Laws of the State of Israel*, I (5708-1948), 4.

⁴ See Chapter 8, "The Judicial System," for a description of the judicial writs which might provide relief or remedy, such as habeas corpus, mandamus, certiorari, injunction, and order nisi. "The order nisi procedure," Dr. Yehuda Leo Kohn, one of Israel's leading legal experts, observed, "has been constructively developed in the higher courts and has proved an effective safeguard of the rights of the individual and of the minority groups." "As Israel is a republic, there has been a tendency to rely on American rather than on English precedents in deciding such fundamental issues." Yehuda Leo Kohn, "The Emerging Constitution of Israel," in *Israel: Its Role in Civilization*, ed. Moshe Davis (New York: Harper & Brothers, 1956), p. 144.

freedom but also his property.⁵ Certain emergency regulations dealing specifically with the security of the country are still on the statute books to enable the Government to cope with any emergency that may arise. Those emergency regulations which existed during the Mandate, however, are gradually being replaced by Knesset legislation or new Government regulation since there is an unhappy association with the emergency regulations of the British administration.

Police powers are essential to modern states and are generally universal in character. In the interest of public health, for example, the Minister of the Interior, after consultation with the Minister of Health, may prohibit, by administrative order, bathing in areas which in his opinion might endanger human life or impair human health.⁶ Similarly, in the interest of public safety, the Minister of Transport may disqualify a person temporarily or permanently from holding an automobile driver's license. The disqualified person may apply to a magistrate's court for rescission of the disqualification, in which case the court, after holding a hearing in which both sides are heard, may uphold either the Minister or the individual petitioner or shorten a suspension period.⁷ Associated with these factors limiting the liberties and rights of individuals is the power of eminent domain. This power may be exercised by the Government in an emergency if the requisitioning of land or property is required for national defense, security of the state, maintenance of essential supplies or services, absorption of immigrants, or rehabilitation of ex-soldiers or war invalids.⁸

Freedom of Speech and Press

Freedom of speech and press in Israel is jealously regarded by the many political parties and the numerous newspapers. More than 350 newspapers and periodicals are published in a dozen different languages. This is the result of the mass immigration from many countries, the existence of more than a dozen political parties, and the wide range of subjects in which the public is interested. The majority are printed in Hebrew, English, Arabic, Yiddish, and French; and politics

⁵ Section 5, Prevention of Terrorism Ordinance, 5708-1948, passed on September 23, 1948, *Laws of the State of Israel*, I, *ibid.*, 77-78.

⁶ Public Bathing Places Ordinance (Amendment) Law, 5717-1957, enacted July 8, 1957, *Laws of the State of Israel*, XI (5717-1956/57), 144.

⁷ Emergency Regulations (Limitation of the Use of Vehicles) (Extension of Validity) Law, 5717-1957, enacted February 25, 1957, *Laws of the State of Israel*, XI, *ibid.*, 64-66.

⁸ Emergency Land Requisition (Regulation) Law, 5710-1949, passed on November 14, 1949, *Laws of the State of Israel*, IV (5710-1949/50), 3-12.

appears to be the single most popular subject of interest. Many of the daily newspapers are the organs of political parties, and two are published by the Histadrut, the General Labor Federation. There are no newspaper chains. Legal ownership rests in most cases with limited companies; and in several cases shares of stock are concentrated within family groups or a few individuals. One evening newspaper is cooperatively published by a group of working journalists and printers. There is no Government newspaper; and Government news is released in the *Government Press Bulletin*, which is distributed by the Government Press Office to the press.

Regulations concerning the press require all newspapers to be licensed by the Minister of the Interior. A license is granted only if certain conditions have been complied with. Primary requirements are that the editor should have attained the age of at least twenty-five years, passed a matriculation examination, and acquired a sufficient command of the language in which the paper is to be printed, and that he should never have been convicted to a term of imprisonment of three months or more. In certain circumstances, the license may be withdrawn — if the conditions cease to be complied with, if the newspaper does not appear at minimum intervals fixed by the law, or if the newspaper publishes statements likely to endanger the public peace.⁹

Censorship of the press exists, as carried over from the British Mandatory administration during World War II, because of the emergency situation created by Arab-Jewish conflict. All articles relating to the defense and security of the state must be submitted to the Government press censor for clearance. Censorship is aimed principally at preventing information of possible military value from leaking to the Arab states. The censor is authorized to prohibit the publication of any matter that in his opinion is likely to impair the defense and security of the country or the public peace; and certain matters are specifically forbidden to be published, such as military troop movements and training maneuvers and information pertaining to immigration. As a result, it is sometimes difficult to read in the newspapers or hear over the state-owned radio system the full story behind such incidents as the Arab-Israeli conflict or the complete course of affairs in the United Nations on these events. People often wait for newspapers from abroad to get a more detailed and truer picture of conditions and occurrences. During the invasion of the Sinai Peninsula in 1946, for example, the Army's decision to forbid newspapermen to accompany the fighting units in the field worked to Israel's disadvantage, since there were times when the world received news of the Israeli campaigns from Egyptian sources only.

⁹ Press Ordinance, 1933, *Laws of Palestine*, II (1934), 1214.

Criticizing the Government

Anyone may adversely criticize the Government and its policies in private or in public without fear of official action. This principle was judicially enunciated in 1953 in the first important case concerning freedom of speech and press that came before the Supreme Court.¹⁰ It involved the suspension by the Minister of the Interior of two Communist newspapers for fifteen days on the ground they violated the Press Ordinance by publishing inflammatory statements attacking Israel's pro-Western foreign policies which were likely to endanger the public peace. These two newspapers — one Hebrew, *Kol Ha'am* (*Voice of the People*) and the other Arab, *Al-Attihad* (*The Unity*) were official organs of the Communist Party and had taken bitter issue with remarks made by a leading Israeli diplomat who promised that, in the event of an East-West war, Israel would be ready to provide 200,000 troops on the side of the West. Aroused, the two Communist newspapers asserted that the Israeli Government had "surrendered to its American masters," that the people did not want to fight "side by side with American warmongers" and "die for imperialism," and that "Ben-Gurion should go and fight the war by himself."

Voiding the suspension, the Supreme Court ruled that freedom of speech and press was a basic element of democracy and could not exist exclusively for the expression of agreement with the Government's policies. The two newspapers, the Court held, had not made such inflammatory statements as would probably endanger the public peace. In deciding cases involving freedom of speech and press, the Supreme Court has two alternative tests for interpreting the meaning of "likely to endanger the public peace." One, the "bad tendency" test, weighs the tendency of the offending words to produce the unlawful results; and the other, the "probability" test, necessitates assessing the probability of the words endangering the public peace. The former would justify the suppression of a newspaper if the Minister of the Interior could show that the words created a tendency, however remote, to endanger the public peace. On the other hand, the latter would require the Minister, before suspending a newspaper, to show that the words would probably endanger the public peace. In the case at issue, the Court resorted to the more liberal "probability" test, found there was no reasonable probability of a breach of the peace, and annulled the Minister's suspension order.

Criticizing the Courts

In a discussion in the Knesset in January, 1952, on a proposed bill to raise the penalties for insulting and attacking policemen. Min-

¹⁰ *Kol Ha'am, Ltd., v. Minister of the Interior*, 7 Piskei Din 871 (1953).

ister of Justice Dov Joseph remarked that the sentences imposed by Israel's judges on black marketeers were so lenient as to constitute an insult to the law. Incensed by Minister Joseph's criticism, Israel's judges went on strike, and the President of the Supreme Court sent a letter of protest to the Speaker of the Knesset. Prime Minister Ben-Gurion quickly branded the latter act as unconstitutional and accused the judiciary of indulging in politics.

The bill which touched off this judicial crisis had been introduced by the Minister of Justice several days after a number of policemen were injured outside the Knesset building during a violent demonstration by Herut Party followers. Led by Manachem Beigin, the demonstrators protested against the Government's proposal to negotiate with Germany on material war claims. In addition to increasing the penalties for resisting, assaulting or obstructing the police, the bill provided for the adoption of minimum sentences. Minister Joseph later requested that his offending remarks be stricken from the official record and admitted before the Knesset that he may have been too harsh in his criticism; but he defended his right to criticize the judiciary. The President of the Supreme Court replied that he was not questioning the right of the Minister of Justice or any one else to criticize the courts, but he was protesting a responsible administrative official's lack of respect for the judiciary.

Use of Any Language

Freedom of speech and press involves necessarily the freedom to use any language orally or in print. During the Mandate period, there were three official, legally recognized languages — Arabic, English, and Hebrew. Every citizen was entitled to plead his cause before the courts and governmental agencies in any of these languages. There was always a fourth language, an unofficial one, however. After World War I, it was Russian. In the mid-1920's, it was Polish. In the 1940's it was German; and in the 1950's it was Yiddish.

The use of Yiddish has been a source of friction between the native-born and immigrant populations. The huge majority of immigrants spoke no Hebrew when they settled in Israel; and the native-born Israelis, many in official positions, anxious to promote Hebrew as the principal language, at times have exhibited overzealousness and intolerance. Illustrative of this attitude was the case involving the renowned Goldfaden Yiddish Theater which was re-established in Israel shortly after statehood with twenty of its forty survivors of the pre-war European troupe of 380 players. The Minister of the Interior denied the company a license to perform plays in Yiddish on the ground that Yiddish was an exile language and its use on the stage

would discourage the acceptance and growth of Hebrew. Protesting as a group, the players contended that they themselves could not speak Hebrew, and also that the new immigrants, who would be their major audiences, knew little Hebrew. Although the licensing authorities did not yield, performances in Yiddish were continued until the police were ordered to close down the theater. The players were prepared to take the issue into the courts, but in the winter of 1951 the Cabinet decided that the Minister of the Interior had exceeded his authority.

The freedom to use any language in this broad sense has no legal limitation in Israel today. It is limited, however, by public opinion in one respect only — in the public use of German. As a result of Nazi terror, the public still does not fully tolerate the publication or sale of German books or newspapers, broadcasts in the German language, playing or singing German music, and showing German movie films. Gradually this hostile feeling is dissipating. Until 1956, any German-language film, regardless of vintage or producer, was banned by Israel's Plays and Film Censorship Board. Today, German-language films, except those from East or West Germany, are permitted. The current reason given for not licensing films from East and West Germany is that their output is not considered anti-Nazi. "We have yet to see an anti-Nazi picture from either Germany," the Board's statement read. "When we do, maybe we'll change our minds."¹¹ The Board maintains a blacklist of German and Austrian film directors and actors who were Nazi sympathizers, and will not license the showing of any film in which they appear.

Public feeling for things German has been changing. "The Young Lions," an American movie expressing sympathy toward a Nazi soldier, was shown in 1958 without hostile reaction. During the same period, five German-language films were being shown to large audiences. "We would never have dared allow this five years ago," declared the Board's spokesman.¹² In June, 1960, when John Barbirolli conducted a concert in Israel, he played Gustav Mahler's Second Symphony, but public reaction caused him to have the vocal parts sung in English rather than the original German. Yet, two weeks later, Marlene Dietrich refused to sing her German songs in any language other than German; and the ensuing reception was warm, enthusiastic approval with a demand for other old German songs.¹³

¹¹ *New York Times*, October 26, 1958, p. 25. The Plays and Film Censorship Board is composed of representatives of the Ministries of the Interior, Police, and Religious Affairs, educators trained in psychology, authors, social workers, artists, theater producers, and members of the public.

¹² *Loc. cit.*

¹³ *New York Times*, June 29, 1960, p. 26.

The freedom to use any language in its narrowest sense — of saying what one wants about anybody else — is not unlimited. Criminal penalties are provided for against libelous, obscene, or seditious utterances.

Freedom of Religion

All religions, with the exception of the Reform branch of Judaism, may be practiced freely, and have their own places of worship, religious schools, hospitals, and charitable institutions. There are probably more religious communities in Israel than in any other country of comparable size. The principal ones are Jewish, Moslem, Christian, and Druze. Israel's Government assists, financially and otherwise, these religious communities through special departments of the Ministry of Religious Affairs. Civil law has delegated to the religious courts of these communities control over such personal status matters as marriage, divorce, and burial.

Generally, the matter of religion and state is essentially one of civil liberties and civil rights. In Israel's Jewish community the issue is debated with passion and, at times, with violence. Involved here significantly are such matters as Sabbath restrictions; production, sale and consumption of Kosher food; marriage and divorce; military service for women; equal rights for women; and Reform Judaism. The question of whether the orthodox laws of ancient Judaism are compatible with a modern, secular Jewish nation seems no nearer solution today than on the day when Israel became a state. Fundamentally, the conflict rests on the refusal of the non-religious majority in the Government to meet the demands of the religious elements for stricter compliance with orthodox religious laws. Complicating the matter is the continued conflict over religious education and the powers of the rabbinate. The orthodox religious element believes that neglect of orthodox law and tradition caused the destruction of the ancient State of Israel and the exile of the Jews, and that similar conduct will again result in disaster. Furthermore, the re-establishment of the State of Israel does not automatically ensure the proper way of life, for Israel without orthodoxy is not a true Israel and can lead only to damnation and ruin. It is orthodoxy, this element asserts, which will ensure unity and security; and the Knesset, it insists, has no God-given authority to change orthodox tradition one iota.

The religious controversy is further intensified by internal differences within the orthodox Jewish community itself. In philosophy and practice these range from the violently extremist Neturei Karta to the liberal Mizrahi Party. In between but closer to the extremists

is the Agudat Israel Party. Unrepresented by any of these are the thousands of Israeli Jews who want to retain many of the traditions of their religion without adhering to all of its laws and restrictions. Both Mizrachi and Agudat Israel leaders have been pressing for additional legal powers for the rabbinate in conformity with ancient Jewish laws. Agudat Israel advocates giving the rabbinate the authority to decide which industries may remain open on Saturdays. At the present time, a committee of Cabinet ministers makes these decisions. Both parties insist that all schools attended by Jews should be religious. The secular leaders of the Government and even of the opposition parties in the Knesset are just as unflagging in their resistance to these proposals. Yet it appears that the secular majority in the Government will compromise as long as possible to avoid an all-out fight with the religious groups because of the need for unity in the interest of national security and because they believe that time is on their side and that anyway the whole matter will be settled some day by the young people who will want to be free to make their own decisions.

The difficulties faced by a modern industrially developing state when it attempts to adhere to ancient orthodox religious doctrines inevitably lead to political conflict. There have been a number of sharp controversies between the secular and the orthodox religious elements in the Government. These clashes have been so bitter and divisive that they at times overshadowed the crisis in the Middle East. One of these occurred over the question of whether the Minister of the Interior or the Rabbinate Council had the authority to decide who was a Jew in connection with the registration of the nationality of children of mixed marriages. After a long conflict in which Jewish scholars throughout the world were consulted by Ben-Gurion, the Government gave in and the rabbinate won at least temporarily.

As long as Israel has been confronted with a severe economic crisis, a surrounding hostile Arab world, bitter military conflict, and an unstable and unsolidified population, Prime Ministers Ben-Gurion and Moshe Sharett, both Mapai leaders, avoided any serious controversy over religious issues. To appease the rabbinate, both were willing to permit the institution of a number of orthodox religious restrictive practices. To appease their socialist colleagues, followers and electorate, they carried out most of these religious concessions by administrative orders or local ordinances, rather than by national legislation. This fundamentally has been the Mapai Party's approach to the problem of church and state in Israel. Mapai has generally held power by making concessions to the orthodox religious political blocs which combined currently represent 14.6 per cent of the electorate and hold eighteen of the Knesset's 120 seats.

Sabbath Restrictions

In Palestine under the Mandate, municipal Sabbath laws were enforced in the Jewish communities in the major cities, causing the closing of shops, theaters, cafes, and offices and the shutting down of transportation. In Israel, on Saturdays and religious holidays, portshipping and unloading are banned, airplanes and railroads do not operate, and generally in the cities where Jewish populations are in the majority, buses do not run. Ships arriving after nightfall Friday must wait until Sunday to unload. All government offices and public institutions, shops, and places of public entertainment and nearly all restaurants are closed. The Jewish Sabbath starts at sundown on Friday and ends at nightfall on Saturday, but closing time is generally well in advance of sundown on Friday. This near-national shutdown does not apply to essential state services such as army, police, and hospital operations. Each year, however, as Israel becomes more industrialized, it becomes more difficult to gear the new factories to a schedule of no work on the Sabbath. In a number of instances those who have violated the restriction have felt the pressure of the rabbinate.

The Days of Rest Ordinance, enacted by the Provisional State Council in June, 1948, prescribed Saturdays and Jewish holy days as official days of rest, although what constitutes rest and how it should be observed were not defined.¹⁴ Instead, the orthodox rabbinate has determined what is permitted and what violates the Sabbath and other holy days. For example, in May, 1956, about 10,000 orthodox religious people demonstrated in Jerusalem protesting the Government's refusal to close an industrial exhibition in Haifa on Saturdays. Prime Minister Ben-Gurion insisted the matter was a local issue to be decided at the municipal level. Pressure on the mayor and council of Haifa led to the closing of the exhibition on the Sabbath.

Orthodox religious leaders in Israel are determined that their country must set an example to the Jews of the rest of the world. The Sabbath is one of the key factors in their program to lead world Jewry in orthodoxy. It is for this reason that the orthodox elements have vigorously insisted on the restrictions described above.

The Issue of Kosher Food

Ancient orthodox Jewish practices permitted the eating of only those quadruped animals whose hoof was cleft and which chewed their cud, those fish which had scales and fins, and those birds which had an extra toe in the back and a gizzard that could be peeled. These animals, fish, and birds were considered clean, or kosher; all other ani-

¹⁴ Days of Rest Ordinance, 5708-1948, passed on June 3, 1948, *Laws of the State of Israel*, I, *ibid.*, 18.

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mals, fish, and birds were considered unclean, or unkosher. The principal item which falls within the realm of unkosher foods and which has been the point of much religious conflict and political strife in Israel is pork.

When the State of Israel was established, the religious parties together with many of the non-religious population, felt the new nation should take into account such ingrained attitudes. A tacit agreement between the Government and the religious parties was reached requiring all import licenses for meat to be approved by the Ministry of Religious Affairs. Since an overwhelming proportion of the meat consumed in the country was imported, the agreement amounted to a virtual ban of non-kosher meat, except for the Christian population.

Maintenance of a general kosher consumption of food has eliminated the possibility of a native hog industry, and has inflated kosher meat prices for a meat-starved population. Although a number of hotels which cater to tourists from abroad serve non-kosher food, the kitchens and messhalls in public institutions and the armed forces must be kosher.¹⁵ This has been the source of unending friction in the armed forces, especially among the native-born Israeli youth.

The question of kosher food has not been a matter confined to eating. Production of pork has concerned the orthodox rabbis nearly as much as its consumption. The orthodox elements have exerted pressure in the Knesset and the Cabinet to forbid Jews from raising pigs and to restrict their breeding to Christian communities in the area around Nazareth.¹⁶ The Knesset and Cabinet rejected the enactment of national legislation and administrative regulation respectively to accomplish this purpose; but in November, 1956, the Knesset passed a law enabling the municipal councils to act on such matters for all or part of their local communities.¹⁷ The law authorized the municipal authorities to make by-laws forbidding or restricting the raising of pigs and the sale of pork products. Passionate debates occurred in the Knesset; the non-religious parties felt that the law went too far, and the religious parties considered the legislation too weak. The former raised such fundamental questions as: In a democracy no one prevents the religious from refraining from eating meats they consider unclean, then why force the non-religious and irreligious to follow suit by

¹⁵ Kosher Food for Soldiers Ordinance, 5709-1948, enacted November 25, 1948, *Laws of the State of Israel*, II (5709-1948/49), 37.

¹⁶ Moslems, too, are forbidden by their religious teachings from eating pork. The Nazareth area is populated mainly by Arab and non-Arab Christians.

¹⁷ Local Authorities (Special Enablement) Law, 5717-1956, passed on November 26, 1956, *Laws of the State of Israel*, XI, *ibid.*, 16.

legal prohibitions? Furthermore, might not this be a first step to forbidding legally the raising and sale of all other foods considered by the orthodox rabbis to be unkosher?'

As passed, the law represented a compromise between these two elements. The orthodox rabbis and their followers demanded the absolute prohibition of pig-raising and sale of pork from whatever source and also the serving of pork in restaurants, while the non-religious parties insisted that any restriction on the freedom of an individual to eat what he desired constituted an infringement of his civil liberties. The first municipality to act on the law was Tel Aviv, followed by Jerusalem. In 1957, a Christian owner of a butcher shop in Jaffa appealed to the Supreme Court against the ban imposed by Tel Aviv on selling pork. His lawyer argued that forbidding the sale of pork by Christians imposes laws of one religion on members of another and asked the Court to rescind it. The head of the Roman Catholic community of Jaffa supported the plaintiff's claim by entering a statement to the effect that the ordinance discriminated against the Christian community. The Court held that, since the enabling law permitted municipal restrictions against selling pork in certain areas but forbade distinctions between the inhabitants of an area, and since the area's population was mixed, the municipality had no right to exempt Christians alone.¹⁸

Other Religious Restrictions

Until September, 1953, complete medical courses could not be given in Israel because of orthodox religious opposition to dissection of the human body on the ground that it violated the doctrine of resurrection of the body after death. However, the Chief Rabbinate agreed to the introduction of legislation specifying that corpses of persons who gave permission before their death and who were without objecting next-of-kin could be used for anatomical study by medical schools.¹⁹

In December, 1954, the mayor of Tel Aviv, under pressure from the orthodox vice mayor and orthodox religious groups, decreed that according to the Bible, women employees in his city must not wear slacks to work and men must wear trousers. Women employees had been wearing slacks to keep warm in their unheated offices.²⁰ In February, 1956, orthodox zealots attempted to prevent archaeologists from probing into an ancient Maccabean burial vault which bore naval

¹⁸ *Mensa v. The Minister of the Interior and the Mayor of the City of Tel Aviv*, H.C. 129/57, 12 Piskei Din 209 (1958).

¹⁹ Anatomy and Pathology Law, 5713-1953, passed on August 26, 1953, *Laws of the State of Israel*, VII (5713-1952/53), 135-36.

²⁰ *New York Times*, December 4, 1954, p. 7.

drawings and might have revealed the existence of a Jewish navy in the second century before Christ. The Chief Rabbinate ruled that caves containing Jewish graves must not be disturbed, and the Minister of Religious Affairs concurred. Vigorous protests from the non-orthodox sections of the population and archaeologists, however, forced the ban to be withdrawn.²¹

Three years later, the refusal of an orthodox burial society to inter the body of a five-year old uncircumcised boy aroused the nation. The child was the offspring of a Jewish father and a Christian mother, immigrants from Poland. Because of his weak constitution the boy was not circumcised as a baby; and since according to Jewish law it is the religion of the mother which is decisive, he was not regarded by the orthodox rabbinical authorities as a Jew. The local rabbi in the village where the parents lived had the child interred beyond the fence of the cemetery and without the recital of the traditional funeral service. Most of the press reacted to this decision with vehement criticism, and women's organizations cabled the Prime Minister in protest. After nation-wide criticism denounced the action, the local council announced it would rebury the body in a new municipal cemetery.²²

When, in September, 1958, the military authorities decided to place the attendance at Jewish New Year's services on a voluntary basis, the chief chaplain of the Army threatened to resign.²³ In March, 1960, several leading orthodox leaders expressed misgivings about the million-dollar collection of modern sculpture that Billy Rose, the American theatrical producer, donated to Israel. Israeli authorities and art lovers were delighted, but the religious leaders warned of the biblical injunction against the display of idols or graven images.²⁴

Marriage and Divorce

Marriage and divorce are subjects within the jurisdiction of the national authority. No city, village, or other political subdivision may legislate on these matters. The Knesset, though, has acknowledged by statute that these two subjects are exclusively the domain of the religious courts.²⁵ To solidify further the religious control of marriage and divorce, all marriages and divorces of Jews must be performed in accordance with Jewish religious law. The exclusive jurisdiction of the religious courts in connection with divorce extends also to matters

²¹ *New York Times*, February 24, 1956, p. 2.

²² *New York Times*, December 18, 1957, p. 37.

²³ *New York Post*, September 15, 1958, p. 12.

²⁴ *New York Times*, March 11, 1960, p. 2.

²⁵ Section 1, Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 5713-1953, enacted August 26, 1953, *Laws of the State of Israel*, VII, *ibid.*, 139.

incidental to the subject, such as financial support of the wife and children.

The rabbinical courts themselves may not impose penalties upon persons who fail to comply with their rulings. Where a rabbinical court in final judgment has ordered a husband to grant his wife a divorce, or a wife to accept a divorce from her husband, and the person has refused to comply within six months from the day of the order, the Attorney General may apply to a secular district court to compel compliance by penalty of imprisonment. In matters of marriage and divorce, the rabbinical and other religious courts may subpoena a witness to appear before them. Failure to obey such summons is punishable in the same manner as failure to appear when summoned before a civil court.

In addition to possessing exclusive jurisdiction by law over all matters of marriage and divorce, the rabbinical courts may acquire jurisdiction by consent of all parties in connection with other matters of personal status of Jews, such as guardianship, legitimation and adoption of minors, successions, wills and legacies, inhibition from dealing with property of persons legally incompetent, and the administration of the property of absent persons. If the parties have expressed their acceptance of trial by a rabbinical court, a suit involving personal status will become the jurisdiction of that court.

Since civil marriage ceremonies are not recognized in Israel, the children of a non-religiously wed couple are considered illegitimate by the orthodox rabbinate. In keeping with orthodox doctrine, free-thinkers and atheists cannot secure a divorce in Israel as they are not under the jurisdiction of any recognized system of religious courts which alone can grant divorces.

Inter-faith marriage is forbidden under rabbinical law. Partners of mixed marriages are not considered Jews and are not accepted as members of the Jewish religious community unless they are converted to Judaism and their sons are circumcised. While the rabbinate will not sanction such marriages, it cannot prevent the clergymen of other religions from marrying a Jew and a non-Jew. The minimum age for marriage, according to orthodox Jewish religious law, is thirteen years for the groom and twelve years for the bride, and even less if the bride's father gives his consent to the marriage. In 1950, the Knesset set penalties for performing the marriage of a girl younger than seventeen, but did not void such marriage itself because, according to religious law, this is perfectly in order. However, it constitutes valid grounds for demanding dissolution of the marriage. The petition for dissolution may be filed by the bride herself, her father, guardian or a welfare officer within certain time limits, but in any case not after

the wife has completed her nineteenth year. No law has increased the minimum age of the groom. A boy of thirteen may legally marry in Israel.²⁶

Israeli criminal law forbids bigamy, irrespective of sex and religion, while orthodox Jewish religious law does not ban polygamy. When the State of Israel was established, plural marriages existed not only among the Moslem inhabitants but also among Jews, particularly the Yemenites. In *Yossipoff v. The Attorney General*, a case which came before the Supreme Court in 1951, Mr. Yossipoff was charged with bigamy. His defense was that the law which made bigamy a crime for Jews discriminated against the Yemenite religious community whose religious traditions permitted him to have more than one wife. The Court, ruling that no discrimination had occurred, cited a number of cases from American legal history, especially two where it was decided that the First Amendment of the Constitution did not constitute a defense to a charge of bigamy in the case of Mormons.²⁷ Another leading case in this connection involved a Moslem who petitioned for a writ of mandamus to force the performance of a marriage ceremony which he had been refused on the basis of a statute outlawing multiple marriage. He maintained that the law violated the religious freedom of Moslems to take up to four wives. The Court upheld the statute, and in dicta asserted that Moslem religious law did not demand polygamy but merely allowed it. Here, again, an American case, *Reynolds v. United States*, which was concerned with Mormons, was cited.²⁸

Under orthodox religious law if a man whose surname is "Cohen" wants to marry a divorcee or widow in Israel, the rabbis would not perform the marriage, because all the people named Cohen are presumed to be "Kohanim," descendants of the priestly clan of Aaron, brother of Moses. Their marriage to divorcees or widows is traditionally prohibited. Also, according to biblical law, the widow of a childless man must be taken into marriage by the oldest unmarried brother of the deceased. This is known as levirate marriage, and can be avoided only by the performance of a religious ceremony, called "chalitsa," which expresses and condones the unwillingness of the deceased husband's brother to take her as his wife. Levirate marriage has faded into history; but chalitsa has survived, and only on its performance may the widow remarry. Because of this religious doctrine, it is impossible in Israel for a childless Jewish widow to remarry unless

²⁶ Marriage Age Law, 5710-1950, passed on August 1, 1950, *Laws of the State of Israel*, IV, *ibid.*, 158-59.

²⁷ *Yossipoff v. The Attorney General*, Cr.A. 112/50, 5 *Piskei Din* 481 (1951).

²⁸ *Malham v. Kadi of Acre*, H.C. 49/54, 8 *Piskei Din* 910 (1954).

she receives the required release from her dead husband's surviving brother. This has frequently led to cases in which men have held up their brother's widows to extortion. The prohibition against remarriage in such cases is binding even though the brother-in-law is a minor or cannot be found. Until he grows up or turns up, the widow may not wed again. Rabbinical law permits the widow to sue the obliged brother-in-law for the release. This may be accomplished only in a rabbinical court; and if the court so orders he must give the widow the release within three months. If the brother-in-law fails to do so, the Attorney General may apply to a civil district court to compel compliance by penalty of imprisonment.²⁹

According to orthodox doctrine, only a husband may initiate divorce proceedings, but the divorce is not valid unless the wife accepts it. There have been cases in which the husband maintained that his wife was unfaithful over an extended period; and the wife, admitting her guilt to the court, insisted she would continue to do as she pleased and would not accept the divorce. In such event the rabbinical court would ask the civil district court to order the woman jailed until she complied with the rabbinical court's decree. However, if a man divorces his wife against her will but without a decision of the religious court stating that the wife must accept the divorce, he is guilty of a crime.

One of the most serious objections to the Marriage and Divorce Law has been that it provides no recourse to civil courts and consequently places a handicap on the majority of Israel's population, who are not orthodox in belief and observance or who are non-believers, in that they have no choice of selecting or rejecting a ceremony. It is this compulsion which many allege constitutes an infringement of personal freedom. Those who opposed the bill, led by the Mapam Party, actually did not demand abolition of religious courts. They asked, instead, that these matters of personal status be placed under the competence of the civil courts as well, so that members of the orthodox religious community could go to the rabbinical courts, and the others to the civil courts.

Equal Rights for Women

Although many Jewish women are achieving political and social distinction in Israel today, if they attend orthodox religious services they are segregated in the synagogues and shielded from the sight of men worshippers. In the rabbinical courts a woman's testimony need not be recognized as valid by the rabbinical judges. Moreover, orthodox religious custom has always denied women the right to serve as reli-

²⁹ Sections 5 and 7, Rabbinical Courts Jurisdiction (Marriage and Divorce) Law, 5713-1953, *Laws of the State of Israel*, VII, *ibid.*, 139.

gious judges. As a result, the secular parties, and especially their women representatives in the Knesset, have contended that religious laws are discriminatory and have exerted pressure to prevent such tenets from permeating the civil domain. In July, 1951, a Women's Equal Rights Law³⁰ was enacted over the opposition of the ultra-orthodox religious elements. The law declared the absolute equality of all women and men before the civil law, authorized married women — Jewish and non-Jewish — to own property in their own right, and established the principle of equality of male and female heirs in inheritance matters when a deceased person has left no will. A married woman is considered fully competent legally to own and deal with property in her own right as if she were unmarried; and her rights in property acquired before marriage are not to be affected by marriage. A husband could no longer dissolve a marriage against the will of his wife without a judgment of a competent court ordering the dissolution. Both parents are considered the natural legal guardians of their children; and when one parent dies, the survivor is the natural guardian.

In matters of voting, holding office or education, Israeli women have the same rights as men. This is especially significant in the case of Arab women, whose status in Moslem society generally approaches slavery. Of the current Knesset's 120 members, eleven are women; and one of the Deputy Speakers is a woman. The Cabinet has always contained at least one woman minister.

Military Service for Women

The matter of military and other forms of national service by women has been a source of much political conflict. The Defense Service Law of 1949³¹ provided a two-year term of military service for unmarried women between the ages of 18 and 26. Males 18 to 26 serve for thirty months. Women conscripted for military service are trained in auxiliary functions and duties releasing men for active military training. The law exempted all married women without exception, and also unmarried women for reason of conscience or religious conviction. Exemption boards were established under the law consisting of a majority of religious persons. No girl who requested exemption on religious grounds was ever drafted. As a result, a large section of the public came to object to the complete exemption from any form of national service of unmarried women who opposed military service on religious grounds, especially since great pressure on the country's manpower had

³⁰ Women's Equal Rights Law, 5711–1951, enacted July 17, 1951, *Laws of the State of Israel*, V (5711–1950/51), 171–72.

³¹ Defense Service Law, 5709–1949, passed on September 8, 1949, *Laws of the State of Israel*, III (5709–1949), 112–18.

reduced the personnel available for other urgent services connected with the integration of approximately 750,000 new immigrants.

It was this sentiment which led to the adoption in 1953 of the National Service Law³² providing for civilian service by girls exempt from regular military service on religious grounds, and specifying that unmarried women between the ages of 18 and 26 who were exempt from regular military conscription on religious grounds would be drafted into national service for a 24-month period, the length of the regular conscription for women, to work in religious agricultural settlements, transitional immigrant villages, or educational, medical and social welfare institutions. The law provided also for the complete exemption from all forms of national service of those orthodox Jewish girls who, because of their family background and way of life, would not leave their family circle even for a day's work. The ultra-orthodox vigorously opposed enactment of the legislation and held demonstrations throughout Israel. In Jerusalem the Chief Rabbi declared that religious Jewish women would be urged by the orthodox rabbis to go to prison rather than to comply with the law; and religious extremists overthrew automobiles driven in Jerusalem on several Saturdays afterwards. More serious was the plot to bomb the Knesset, which failed when police, acting on a tip, confiscated several arsenals of explosives and weapons hidden by religious zealots.³³

Orthodox Opposition to Reform Judaism

The orthodox rabbis view Reform Judaism³⁴ as more dangerous to

³² National Service Law, 5713-1953, passed on August 26, 1953, *Laws of the State of Israel*, VII, *ibid.*, 137-39.

³³ The most extremist of the orthodox groups has been Neturei Karta (Custodians of the Town) which believes it sacrilegious to have established the State of Israel before the coming of the Messiah, especially since the Government, in its opinion, disregards and violates the Holy Scriptures. These zealots have burned down pigsties, wrecked butcher shops that they felt were not fully kosher, stoned theaters and cafes which have been opened before sunset on Saturdays, and attempted to prevent the opening in Jerusalem of a public swimming pool where mixed bathing was permitted because they view it as a desecration of the Holy City and a defiance of orthodox law to permit men and women to bathe in the same pool at the same time.

³⁴ Reform Judaism emphasizes the evolving character of Judaism and the continuous interpretation of religious law in accordance with the needs of modern Jewish life. It recognizes that forms and ceremonies can be modified with the times provided the essentials of Judaism are not changed. Orthodoxy maintains the binding authority of ancient Jewish religious law and insists on its immutable character, holding that every single ceremony, law or regulation transmitted from the past has achieved an abiding sanctity. Reform Judaism's services differ from orthodox services in that

orthodoxy than Christian missionaries. While no one has legally the power to prohibit Reform Judaism from conducting services, the pressure of the orthodox political parties has succeeded in preventing the spread of Reform Judaism. In March, 1955, Prime Minister Sharett announced that the Government would permit the establishment of a Reform synagogue in Jerusalem as part of an archeological school. Orthodox members of the Knesset warned that it would not be tolerated. The opposition was finally overcome by the insistence of the American Reform rabbi and archeologist, Dr. Nelson Glueck, and also by the unswerving stand of the mayor of the City of Jerusalem.

This was Reform Judaism's first breakthrough. As yet, it has not attempted to defy orthodox authority over the performance of marriages and other matters of personal status. Reform Judaism is expected eventually to make such an attempt, which would be a direct challenge to the orthodox Rabbinical Council. This would also test whether Israel's Government, dominated by secular political parties, has the power to force the orthodox groups to accept a ruling on a religious question and to yield its exclusive control over such matters as marriage and divorce.

Freedom of Movement

The freedom to travel is fully enjoyed by all inhabitants except the Arabs. This sore spot in Israeli democracy is discussed in detail elsewhere in this chapter in a section on the Arab minority. In Western democracies, generally, citizens may travel freely within their respective countries without having to carry special governmental certificates of identity on their persons ready to be shown to the authorities at any time requested. On the ground that it is menaced by its Arab neighbors and their kinsmen internally, Israel requires all its inhabitants of sixteen years or over to obtain a certificate of identity issued by governmental registration offices³⁵ and to carry it with them at all times and present it, on request, to a police officer, head of a local authority, or a soldier while in the pursuit of duty.³⁶

men and women sit together, the wearing of hats is optional, and musical instruments may be played. In addition, sections of the orthodox liturgy, such as those referring to a return to Zion or the resumption of the sacrificial system, have been eliminated.

³⁵ Section 7, Registration of Inhabitants Ordinance, 5709-1949, passed on February 3, 1949, *Laws of the State of Israel*, II, *ibid.*, 105.

³⁶ Emergency Regulations (Possession and Presentation of Identity Certificate) (Extension of Validity) Law, 5716-1956, enacted December 25, 1956, *Laws of the State of Israel*, XI, *ibid.*, 26-27.

With regard to travel abroad, an Israeli national has the right to apply for and be issued a passport to leave the country. This right, however, is not absolute; it is limited by the discretion of the Minister of the Interior to deny the granting of a passport, refuse the extension of or shorten its validity, cancel it, or restrict the range of travel.³⁷ A person may be refused a passport if there is reason to believe that such travel might prejudice the security of the state.³⁸ In any event, no Israeli national may legally leave the country in the present period without an exit permit.³⁹

Freedom of Organization and Assembly

Liberty to meet political associates freely or to petition governmental authorities, without police interference or control, exists in Israel. Any group of people wishing to form a political association is free to do so, but their organizers are required to register the society with the local authorities. This is not a new requirement; it existed under the old Ottoman law on societies, and was carried over by the British during the Mandate period. There are nevertheless certain special precautions which the state has taken in scrutinizing organizations believed or known to be subversive or terroristic. These are generally similar to those taken by Western democracies in the interest of security and defense of the state.

Employees and employers possess the right to organize freely, negotiate collectively, and enter into agreements regarding hiring and firing, working conditions, obligations of the parties concerned, and other labor-management relations.⁴⁰

Procedural Rights

A person suspected of or charged with violating the law possesses procedural rights generally similar to those enjoyed in Western democratic countries. The individual in Israel may not be subjected to un-

³⁷ Passports Law, 5712-1952, passed on July 8, 1952, *Laws of the State of Israel*, VI, *ibid.*, 76-77.

³⁸ Emergency Regulations (Foreign Travel) (Amendment) Law, 5715-1955, passed on June 7, 1955, *Laws of the State of Israel*, IX (5715-1954/55), 105.

³⁹ Section 1, Emergency Regulations (Foreign Travel) (Extension of Validity) Ordinance, 5709-1948, passed on November 18, 1948, *Laws of the State of Israel*, II, *ibid.*, 17.

⁴⁰ Settlement of Labor Disputes Law, 5717-1957, enacted February 18, 1957, *Laws of the State of Israel*, XI, *ibid.*, 51-58, and Collective Agreements Law, 5717-1957, enacted February 18, 1957, *Laws of the State of Israel*, XI, *ibid.*, 58-63.

lawful search, seizure, or arrest. He has the right to brief detention, instruction as to the charges, habeas corpus, reasonable bail, legal representation of his own choosing, and public trial. In undergoing trial, a person has the right to protection against self-incrimination, to confrontation by witnesses, and to security against cruel punishment or double jeopardy.

Brief Detention, Legal Representation, and Public Trial

Any person who is arrested must be presented with formal charges and may not be kept in jail for more than forty-eight hours without being brought before a court and formally remanded. In general, the restrictions on the detention of individuals by the police are similar to those in Great Britain. Habeas corpus, introduced during the Mandate period, is still in force.

An individual suspected of an offense against the security of the state, except treason or espionage, may not be detained for longer than fifteen days before being brought to trial.⁴¹ In cases involving suspicion of treason or espionage, detention may be extended to four months at the request of the Attorney General and by order of a justice of the Supreme Court.⁴² An adult charged with a crime other than treason or espionage has the right to a public trial.⁴³ Any person accused of a crime has the right to be represented by a lawyer of his own choosing except that the lawyer must be a member of the Israeli bar.

Presumption of innocence is a fundamental principle of Israeli law derived from British and American jurisprudence and ancient Hebraic doctrine. The rule of reasonable doubt, adopted from the American legal system, protects the individual in Israel; for, unless the charge against a person has been proved beyond a reasonable doubt, an acquittal is mandatory. Since Israel does not have a jury system, the judge decides both questions of fact and law; but appeals on both points may be made to a higher court.

Right to Resist Unlawful Search and Arrest

Searches of private homes generally may not be conducted in Israel without court-issued warrants. However, in cases of espionage or treason where the security of the state requires prompt action, police search may be carried out without a search warrant but on written

⁴¹ Section 35, Penal Law Revision (State Security) Law, 5717-1957, passed on July 31, 1957, *Laws of the State of Israel*, XI, *ibid.*, 193.

⁴² Section 34, *ibid.*, 193.

⁴³ Sections 38-41, Courts Law, 5717-1957, enacted July 23, 1957, *Laws of the State of Israel*, XI, *ibid.*, 164-65.

order of the inspector general of police or a superior police officer designated by him; and in this event, the written police order must be approved by a judge within three days of its issue. Military search in cases involving espionage is permitted if a commander of a military unit or an officer of the rank of major or over feels that the security of the state requires urgent action. In this event, a written order directing the search is necessary, and within three days of its issue it must be approved by a magistrate or by the president of a military district court.⁴⁴

Grievances of Israel's Arab Inhabitants

As a result of the 1948 conflict, the Arab inhabitants of Israel suffered complete dislocation of their social and economic life. Many villages were badly damaged in the fighting, and agricultural implements and machinery and livestock were destroyed. Nearly all the Arab landowners and wealthy farmers to whom the average Arab had looked for employment had fled the country. The collapse was not merely economic. The whole fabric of Palestinian Arab society had fallen apart. Arab political parties, societies, and newspapers vanished. Overnight the Arabs found themselves defeated and reduced from a majority to a minority, today numbering about 175,000 Moslems and 50,000 Christians.

The case of Israel's Arab inhabitants is essentially one asserting the denial of civil liberties and rights, with primary emphasis on unequal treatment. Their grievances are as follows: (1) military rule in Arab communities only; (2) restriction of movement; (3) intimidation by civilian police and military raids and searches; (4) discriminatory laws and regulations; (5) confiscation of property and expropriation of Arab-owned land; (6) taxation on Arab land which the Arab communities are forbidden to cultivate; and (7) compulsory sale of Arab crops to the Government at prices lower than those accorded to Jews.

The Government does not deny there is merit in the grievances of the Arab inhabitants. Its defense asserts, rather, the urgent necessity of national security. Because of the hostility of the Arab nations, Israel cannot treat its Arab inhabitants — the majority of whom live in the border areas — in the same manner as its Jews. Furthermore, there can be no equal rights without equal obligations. Israel's Arabs, exempt from military service, have never demanded equality in this respect. As for the continuation of military government, the Cabinet has agreed to re-examine the situation from time to time and to extend

⁴⁴ Sections 36–37, *ibid.*, 193–94, and *Dukorsky v. The Attorney General*, Cr.A. 80/54, 8 *Piskei Din* 975 (1954).

civil liberties and rights in the border areas; and several positive steps have been taken to relax restrictions on Arab nationals.

In connection with land, the Government maintains that the country is poor and must exploit all available land resources. Land confiscated from Arabs who fled Israel in 1948 were either allocated to Jewish immigrants or taken over by the Government for military or development purposes. Many of the immigrants who were given abandoned Arab land had been among the approximately 350,000 Jews who were oppressed while residents of neighboring countries and whose property had been confiscated by the Arab states. The Jewish agricultural settlers, moreover, have been farming according to modern methods and producing food for the entire nation on lands which otherwise would have probably remained unexploited. Nevertheless, more than 15 million pounds (\$8,333,000) have been given to Arabs in Israel to compensate for requisitioned lands; and mixed Arab-Jewish committees on compensation have been established to determine fair prices for Arab lands acquired by the Government for development.

When the Nationality Law went into effect, the Arabs in Israel comprised two groups — those who were legally in Israel ever since the establishment of the state, together with several thousand others who had entered the country legally after that under the family reunion plan; and those, perhaps 50,000, who had entered the country illegally and were liable to form the core of a "fifth column" for the much threatened invasion. The law was designed to enable the first group of Arabs to acquire Israeli nationality with a minimum of difficulty, and to ensure that those in the second group should obtain it only after fulfilling the additional legal requirements. This, the Government insists, cannot be regarded as discrimination, especially since the law has been liberally applied, with the result that more than ninety per cent of all the Arab residents today are Israeli citizens.

Arabs in Israel, men and women alike, have the right to vote, a right not universally enjoyed by the male and completely denied to the female in the Arab states. In the national election of 1959, 91 per cent of the Arabs cast ballots, 9 per cent higher than the percentage among the total population. Free to organize politically, Israel's Arab inhabitants have created a number of political parties; and Arab delegates have sat in each Knesset nationally and presently sit in eleven Arab municipal councils.

A program of equal pay for Arabs and Jews in public employment and equal prices for Arab and Jewish agricultural produce has been initiated; but in private employment, admittedly, wages among unskilled labor are still less for Arabs than for Jews. In 1959, the Histadrut agreed to grant Arab workers full membership, a move which

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has permitted 20,000 Arabs to integrate into the Israeli labor movement and has produced mixed unions.



SUGGESTED READINGS

- Badi, Joseph. *Religion in Israel Today*. New York: Bookman Associates, 1960.
- Gorney, Uriel. "American Precedent in the Supreme Court of Israel," *Harvard Law Review*, LXVIII (May, 1955), 1194-1210.
- Hadawai, Sami. "Israel and the Arab Minority." New York: Arab Information Office, 1959.
- Peretz, Don. "The Arab Minority in Israel," *The Middle East Journal*, VIII (Spring, 1954), 139-54.
- Samuel, Edwin. "State and Religion in Israel," *The Political Quarterly*, XXVI (October-December, 1955), 380-88.
- Stock, Ernest. "The Press of Israel: Its Growth in Freedom," *Journalism Quarterly*, XXXI (Fall, 1954), 481-90.

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Governmental Administration

In Israel's parliamentary system, the Knesset legislates, and the ministries execute the laws assigned to them for implementation. In most cases, legislation provides for execution by a designated minister. At times, more than one minister may be designated because of multiple or joint areas of responsibility. In certain instances, the law may state that the implementing authority will be a member of the Government on whom the Government will confer the power to implement the law. The ministries are also executors of Government policy and are assigned specific implementary tasks by Cabinet decisions.

The Prime Minister is not only the head of the Government but also the chief of administration. Consequently, he is both the leader of the ministers forming the Government and the coordinator of the ministers directing the administrative ministries. Israeli ministries are similar to the European ones; and while they correspond somewhat to the federal departments in the United States, they are in many respects unique because of Israel's peculiar problems. In Israel, government is the largest employer of labor, the largest owner of land, and the largest investor in economic enterprise. After twelve years of statehood, governmental and voluntary agencies still function side by side in many areas. Government hopes, in time, to assume all those functions now in private hands which are regarded as belonging to government. Yet, the dependence of Israel on financial assistance from foreign and voluntary sources tends to continue this side-by-side relationship, a factor which strongly influences the nation's public administration.

The Ministries

Israel's current administration comprises the following sixteen Ministries: Agriculture, Commerce and Industry, Defense, Development, Education and Culture, Finance, Foreign Affairs, Health, Interior, Justice, Labor, Police, Posts, Religious Affairs, Social Welfare, and Transport and Communications.

Ministry of Agriculture

The country's many arid and uncultivable areas and its small water supply and frequent droughts have posed severe problems for the Ministry of Agriculture. Irrigation, reclamation, and conservation are major programs heavily financed by the state and directed by this Ministry. Other functions include food storage, crop planning, vegetable and fruit research and experimentation, increasing agricultural mechanization and productivity, insect control, veterinary and fishery services, operation of agricultural schools, and preparation and distribution of farm literature.

Ministry of Commerce and Industry

A primary economic need is the stimulation and expansion of the private economy and the attraction of private capital for investment purposes. The Ministry of Commerce and Industry is responsible for carrying out such programs. Its tasks generally include planning for and promotion of commerce and industry; regulation of production for the domestic market and for export, and the dispersal of industrial plants in development areas; formulation of foreign trade policy; protection of domestic industry; control of quality, weights, measures and prices; encouragement of foreign capital investment; initiation of plans for new enterprises; and fostering of applied industrial research.

Ministry of Defense

Defense is probably the greatest and most urgent problem. The constant threat to her existence and the furnishing of Soviet arms to Arab states have made necessary the procurement of modern armaments, conscription, and the maintenance of a large military establishment. This Ministry is the nation's largest agency, comprising a variety of departments engaged in maintaining a relatively huge defense force. Its responsibilities encompass the acquisition and production of arms; research and planning for military purposes; construction of military installations, including atomic energy research piles; and the recruitment, training, and operations of the armed forces.

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The military service program includes the channeling of select conscripts on the completion of basic training to vital border settlements and encouraging them to remain there permanently after their two and a half years military service. The defense forces occupy a unique position in the country's political, economic and social life. They are influential politically, exerting pressure on all branches of the Government and the economy; and they are, in effect, a schooling system for the masses of young immigrants who have come to Israel from North African and Middle Eastern lands.

Ministry of Development

A small land on which now live more than 2,000,000 people and which expects to have 3,000,000 by 1970, Israel faces hardship because it lacks sufficient natural resources to sustain such large populations. As a result, the state has allocated huge sums of money to exploit the country's natural resources and develop the southern Negev under the direction of the Ministry of Development. To help carry on these operations, the Government formed a number of development companies, resembling public corporations in the Western states, some of which have sold stock shares to raise needed capital. These engage in the production of electricity, bromine, ceramic materials, phosphates, copper, fertilizers, potash, and various chemicals. Owned chiefly or entirely by the state and supervised by the Ministry of Development, all of the companies were operating at a financial loss until 1956; but since then, half of them have so increased their output and export volume that they emerged from deficit to pay dividends to shareholders. The bromine, copper, potash, and phosphate works are the only ones still not showing profits.

The Ministry conducts geological mapping and surveying; performs drillings and desalinating operations, plans road and other transportation systems for the southern desert region, and develops industry, utilities and other public services in that area; explores for oil; manages the expansion of facilities at the Port of Elath on the Gulf of Aqaba through which ply cargo vessels to and from Africa and the Far East; and prospects for minerals and metals.

Ministry of Education and Culture

During the Mandate period and the first year and a half after statehood no public unified elementary school system existed. Instead, there were originally five and then four basic private school systems, called "trends," operated by three political parties and the Histadrut. The General Zionist schools were non-sectarian and non-ideological. Mizrahi and Agudat Israel taught orthodox religious doctrine in their

schools; and the Histadrut schools taught subjects from socialist labor viewpoints.

In 1949, the Knesset passed a Compulsory Education Law¹ which made elementary schooling compulsory but retained the private trend system and aided the trend schools financially. This was the first step toward unification. In 1953, the Knesset enacted the State Education Law² abolishing the trends and replacing them with a unified public elementary school system. The law provided for free public elementary schools, but permitted private schools to function if they adhered to the curriculum and standards set by the Ministry of Education and Culture. All children up to fourteen years of age must attend elementary school, public or private. The Ministry of Education and Culture supervises both public and private elementary schools. Secondary education is not free, compulsory or public, but is provided privately with state financial assistance and is supervised by the Ministry. Similarly, financial aid and supervision are provided for higher learning and adult education.

One of the most serious problems is the education of the several hundred thousand immigrants of Middle Eastern or North African origin who are unable to read or write. The children among them are required to attend elementary schools, but the adolescents over fourteen years old and the adults are not. Those of military age are conscripted and in the army are taught to read and write, practice hygiene, and acquire mechanical skills. It may be that adult education will be made compulsory for illiterate adult immigrants.

Ministry of Finance

As the chief economic agency of the Government, the Ministry of Finance is responsible for the planning of the economy, formulating tax policy and collecting state taxes, controlling and distributing foreign currency, maintaining Government accounts, and purchasing and assigning state property. One of the Ministry's bureaus is the Government Printer, an establishment which prints governmental forms, publishes official documents and other publications, and mints Israeli coins.

Preparing the state's four primary budgets for Israel each fiscal year — April 1 to March 31 — is no easy task. The Ministry's Budget Department draws up separate ordinary, development, foreign currency, and Government companies budgets to reflect the many changes occur-

¹ Compulsory Education Law, 5709-1949, passed on September 12, 1949, *Laws of the State of Israel*, III (5709-1949), 125-31.

² State Education Law, 5713-1953, enacted August 12, 1953, *Laws of the State of Israel*, VII (5713-1952/53), 113-19.

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ring each financial year. This requires thorough examination of all the branches of the economy and determining areas for expansion or curtailment in line with parliamentary legislation and Government policy. The budgets are, in effect, reviews of the country's finances for the past fiscal year, estimates of the nation's expenses during the next year, and proposals of the Government to meet those costs.

The State Budget for 1959–1960 (in Israeli pounds; 1 pound equals \$.55)

<i>Revenue Source</i>	<i>Amount</i>
Taxes on income and property	318,000,000
Taxes on expenditure	482,500,000
Fees for licenses and services	43,750,000
Collection on account of interest and miscellaneous revenue	66,050,000
Collection of internal loans and sales of property	266,500,000
Counterpart funds	295,000,000
	1,471,800,000
<i>Expenditure</i>	
Social services	213,377,000
Economic and administrative services	100,946,000
Security services and reserves	385,977,000
Subsidies	6,000,000
Encouragement of exports and import of capital	79,000,000
Interest, payment of debts and special expenditure	206,000,000
Development	480,500,000
	1,471,800,000

In the fiscal year 1959–1960, it cost, to run the Knesset, 2,004,000 pounds (\$1,102,200); Cabinet, 250,000 pounds (\$138,880); President, 122,000 pounds (\$67,100); the sixteen ministries, 563,684,000 pounds (\$310,026,200), ranging from 230,000 pounds (\$126,500) for the Ministry of Posts to 240,000,000 (\$132,000,000) for the Ministry of Defense; State Comptroller's Office, 2,679,000 pounds (\$1,473,450); aid to local government, 3,750,000 pounds (\$2,062,500); Prime Minister's Office, 3,189,000 pounds (\$1,753,950); tourist promotion, 1,700,000 pounds (\$935,000); and subsidies for reducing prices of essential commodities and services, 36,250,000 pounds (\$19,937,500). Responsibility for keeping the accounts of the Government's financial operations and for reporting on them rests with the Ministry's Accountant General who sets standards for the Government's accounting procedures and the processes for administering the Government's finances.

Ministry of Foreign Affairs

The Ministry of Foreign Affairs is responsible to the Government for executing foreign policy. Its primary tasks are to maintain official contacts with other nations; promote Israel's policies and defend the country's interests abroad and in international organizations; explain Israel's policies and problems to foreign countries; develop cultural and economic ties with other states; protect the rights of Israeli citizens abroad; and provide consular services for foreign nationals. Israel maintains missions in sixty-three countries and has trade and payments agreements with twenty-two.

Ministry of Health

This Ministry has a dual function. It licenses the medical profession and supervises sanitation, and also conducts research into preventive medicine and operates an extensive network of hospitals. In addition, it supervises privately owned hospitals. As of 1959, the Ministry maintained twenty-two hospitals, five health centers, and 372 mother-and-child care clinics. Its contact with the World Health Organization has brought Israel technical aid and equipment needed in absorbing the huge numbers of immigrants and in establishing clinics in the Arab villages. Environmental sanitation is another important function, especially testing drinking water and milk and milk products and advising on sewerage disposal.

Ministry of the Interior

Immigration and registration, physical planning of towns and cities, and municipal economic and governmental assistance are the principal areas in which the Ministry of the Interior functions. It registers births, deaths and adoptions; records changes of names and the entry of temporary residents and tourists; issues exit permits; selects sites for industrial zones, recreational areas and transportation routes and networks; and grants to local government financial aid, and advice on legislation, taxes, budgets, and fiscal systems. In the Ministry is a Plays and Films Censorship Board which examines movie films and theatrical plays and decides whether they may be shown publicly. Possessing wide discretionary powers kept in check mainly by the courts, the Board has restricted 113 films and two plays to adults and has disqualified twenty-three films on the grounds of crime and horror, dealing with Nazi Germany, offensiveness to a foreign state, and sexual eroticism.

Ministry of Justice

In charge of the Ministry of Justice under the general direction of the Minister is the Attorney General to the Government who is ap-

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pointed by the Government and is the head of the state's legal services. His functions are: (1) to render legal advice to the Government and to individual ministers and ministries, and to give opinions and make decisions on governmental legal questions; (2) to supervise the preparation of draft legislation and other legislative materials for the Government's consideration and presentation to the Knesset; (3) to represent the state in legal proceedings; and (4) to draft governmental contracts and articles of incorporation for Government companies.

Persons in need of legal advice or representation but unable to afford them are provided these services free by the Ministry. Other functions include registration of corporations, partnerships and business names; granting of patents, copyrights, and design trade marks; fixing rent for state lands; administration of property of absentees, mental incompetents, deceased childless persons, and minors; registration of rights in land and housing, transfers of land, leases, and mortgages, and settling titles to land; and supervision of bankruptcy procedures, and operation of bankrupt essential undertakings until they are rehabilitated.

Ministry of Labor

The Ministry of Labor inspects industrial establishments for safety and health conditions, acts as settler of labor-employer disputes, provides vocational education for training persons to meet the country's labor needs, and assists cooperative societies in their operations. It conducts surveys, builds industrial plants, lays roads, constructs housing, and plans building programs to absorb labor which otherwise would be unemployed. The Ministry's institutional units operate as independent authorities within the Ministry and are subordinate only to the Minister of Labor administratively. Otherwise, these independent authorities function under their own laws which created them. Such units include the National Insurance Institute, which administers a national system of insurance covering maternity, disability, old age, widow, and orphan benefits; Israel Institute of Productivity, for increasing efficiency in industry, agriculture, construction, and office practices by research, survey, technical guidance and training courses; a Safety and Hygiene Institute, to promote safety and hygiene in industrial plants, agriculture, and business; and the Employment Service, which operates the country's labor exchanges that were run by the labor movement until 1959, and which is the only authorized agency for providing labor in agriculture, commerce, industry, and all other manual labor except housework.

Ministry of Police

In European parliamentary systems the police function is generally

assigned to the Ministry of the Interior. In Israel there is a separate Ministry for this purpose; and the police forces under the Ministry of Police serve the entire country, including the cities. Also under this Ministry is the operation of the country's prisons. Israel's prison system from its inception emphasized rehabilitation. The death penalty does not exist, except for treason against the state or Nazi crimes against the Jews. Crimes in general are slowly increasing over the percentage of population growth. In 1958, there were 53,010 felony or misdemeanor offenses as compared to 50,800 in 1957.

Ministry of Posts

The postal service, telephone communication system, and radio broadcasting are state-owned and operated. Israel's postal system is one of the few such systems which run profitably. Telephone service is still inadequate, especially in the Arab cities and villages. Although "Kol Yisrael" (Voice of Israel), the state radio station, is directed by the Office of the Prime Minister, the engineering services for the four broadcasting studios in Jerusalem, Haifa, and Tel Aviv are provided by the Ministry of Posts. In addition, the Ministry licenses ship and airplane radio stations, and holds examinations for amateur radio operators and for radio operators on ships and planes.

Ministry of Religious Affairs

Unlike most nations, Israel has a Ministry of Religious Affairs which exercises great authority not only over the religious communities but also over the general population in such matters as marriage, divorce, production and sale of kosher food, Sabbath restrictions, and burial. The Ministry supervises both the Jewish and non-Jewish religious communities, including their religious courts.

Ministry of Social Welfare

Until 1959, the Ministry of Social Welfare carried on nearly all activity involving aspects of welfare. This broad authority was exercised over such institutions as child guidance clinics, public hospitals for the needy, and kindergartens for pre-compulsory elementary school age children. By Government order, these functions were assigned to the Ministries of Health and of Education and Culture respectively with a permanent inter-ministerial committee created for coordination. This was the first major step taken to confine the true social welfare functions to the Ministry of Social Welfare. As the Ministry stands today, it provides family welfare services consisting of permanent or temporary material support for the needy, institutionalizing of the needy aged, contribution to rent payment by the needy,

and advising in cases of matrimonial problems, child upbringing and other matters affecting family well-being. It furnishes social rehabilitation services to disabled wage-earners so as to train them for other occupations, and operates orphanages and youth homes for homeless children and adolescents.

Government is not the only dispenser of social welfare services. Political parties, the labor movement, Zionist groups, and charitable societies with affiliations abroad contribute largely to the maintenance of social services in both welfare and health fields. Despite the increasing aid from these organizations, the demands created by the new hundreds of thousands of needy immigrants from North African and Middle Eastern lands appear to impel the expansion of the Government's social welfare services.

Ministry of Transport and Communications

Pressure for more and better land, sea, and air transportation facilities and communications services has greatly increased. As a result, ever-growing demands are made for expanding these areas in which the state owns and operates many enterprises. The railways and airlines are state-owned. Shipping is not wholly state-owned. The Israel Merchant Marine, the state's shipping enterprise, owns about fifty ships, while Zim Navigation Company, a joint venture by the Jewish Agency, the Histadrut and the Israel Maritime League, owns nearly twenty-five, the Atid Maritime Service Company owns two, and the Trade and Shipping Company owns four. In connection with shipping, this Ministry conducts large-scale programs for developing seaports, such as Haifa, Elath, Jaffa, and Tel Aviv, which now exist, and Ashdod, a deep water port to be built at Israel's southern tip of the Mediterranean coast and planned to be the country's largest. A shipyard also is to be constructed to give the nation its only one. Additional functions of the Ministry are meteorological services and licensing road transport vehicles and drivers.

Bank of Israel

The Bank of Israel, established by act of the Knesset in 1954,³ administers, regulates and directs the banking, credit and currency systems of the country, promotes economic stability and capital investment, and acts as the Government's banker. Independent of the ministries in that it is outside of any of them, the Bank is headed by a Governor appointed by the President of the State on recommendation

³ Bank of Israel Law, 5714-1954, passed on August 24, 1954, *Laws of the State of Israel*, VIII (5714-1953/54), 163-74.

of the Government. As controller of credit, the Bank exerts a deep influence on the economy. Consequently, the Bank's fixing of interest rates requires the approval of the Knesset's Finance Committee. All of the country's commercial, mortgage and credit cooperative banks are controlled and audited by the Bank. All purchases and sales of foreign exchange are effected through the Bank as manager of the state's exchange funds and foreign exchange reserves. Likewise, all state loans are managed by the Bank, which acts also as the Government's fiscal agent. Two of its most important functions are economic research and preparation of comprehensive economic development plans for a period into the future.

Prime Minister's Office

A number of strangely unrelated administrative units are located in the Prime Minister's Office, such as the Israel Broadcasting Service, Government Press Office, Central Bureau of Statistics, National Council for Research and Development, Office Mechanization Center, State Archives, Civil Service Commission, Government Tourist Corporation, Government Names Committee, Commission for Historic Sites and Landscaping, Coins and Medallions Unit, and Israel Foundations Trustees.

Radio broadcasting is a state function. "Kol Yisrael" is the Government radio station operated by the Israel Broadcasting Service. Official news of action by the Government and the ministries is released to the newspapers and foreign correspondents by the Government Press Office. Statistics and reports of surveys on population developments, income, prices, cost of living, education, delinquency, crime, social welfare, accidents, manpower, taxes, savings, housing, and other demographic and economic conditions are issued by the Central Bureau of Statistics. Solutions to scientific problems relating to the development of the country and especially the Negev are the main concern of the National Council for Research and Development. Some of these problems are the desalination of underground water, raising vegetation which would acclimatize in the desert, and exploitation of solar energy. In addition, the Council is the central body for coordinating scientific affairs in the country and providing an exchange of worldwide scientific literature.

To assist the Government and the ministries in obtaining information and data rapidly, an Office Mechanization Center was established. Its principal tasks include the preparation of the voters' lists for elections and the indexing of data on immigration, births, changes of address, marriages, divorces, and deaths. The State Archives decide what ma-

terial to preserve or destroy and register historical material in governmental and private possession. Promotion of tourism is the function of the Government Tourist Corporation. The Government Names Committee determines geographical names; and the Commission for Historic Sites and Landscaping establishes public parks and gardens, museums, historic sites, and religious shrines. Memorial coins and medallions are designed by the Coins and Medallions Unit; and the disbursement of grants received from research foundations abroad for the conduct of scientific research in Israel is made by the Israel Foundations Trustees.

Civil Service Commission

The Civil Service Commission is in the Prime Minister's Office. Actually, the term "Civil Service Commission" is misleading. The agency is headed by an individual, the Commissioner, and not by a body of commissioners. A more accurate translation of the Hebrew would read "State Service Bureau."

For several months after statehood, the Prime Minister was responsible for the civil service. Then a Civil Service Department was created by the Government and placed in the Ministry of Finance, and a committee of four ministers was appointed by the Cabinet to formulate civil service policy and make decisions. This arrangement failed because the Department was given little power to operate, and the four ministers devoted little time to civil service affairs. Consequently, the position of Civil Service Commissioner was created by the Government on December 20, 1950, was placed in the Prime Minister's Office, and was given the following powers: (1) to approve the division of functions and responsibilities between and within the various administrative units; (2) to lay before the ministries and the Government proposals for efficiency in civil service, including appropriate technical arrangements; (3) to enact administrative regulations in Government institutions; (4) to approve appointments in all grades, with the exception of certain posts whose approval the Government reserved for itself; and (5) to prepare and hold examinations for appointments and promotions as required. The Government Secretary was appointed Civil Service Commissioner in January, 1951, holding both posts simultaneously; and a Civil Service Advisory Committee was formed consisting of the directors-general of the various ministries to advise the Commissioner.

This was the first pronouncement of a requirement, though limited and vague, for civil service examinations. From 1948 to 1951, Israel conducted its hiring for governmental agencies by the spoils system. Jobs were parceled out on the basis of party affiliation and personal friendship, especially the former. Commented James G. McDonald, first United States Ambassador to Israel:

As for internal administration, the ghost of Andrew Jackson would not have been displeased. Each Minister began to fill his department with his own party regulars. High and low patronage, called *Protektzia*, or more cynically, Vitamin P, became the bureaucratic order of the day. This was almost inevitable: the party tradition was too strong, the partisans too numerous and too long starved, the backlog of public officials too small.⁴

Israel's spoils system became the butt of many satirical anecdotes. One of the most popular concerned the newly arrived immigrant who went to a governmental agency to apply for a needed document. On entering a room of the particular agency, he saw two doors, one marked "Male" and the other, "Female." He opened the first door and came into a second room which, likewise, had two doors, one marked "Party Member" and the other, "Non-Party Member." He chose to go through the second door and found himself in the street.⁵

In December, 1951, the Government introduced a limited merit system and held its first general civil service examinations. The examinations for hiring and promotion were combinations of the British "subjective" and the American "objective" types of tests. The first series of examinations, lasting five days, was taken by 452 applicants. The written "subjective" part of the test consumed three days, the first covering general ability and a knowledge of the Hebrew language; the second, the history of Zionism, knowledge of the Bible, and general level of education; and the third day, administration, government, law, and legislation. On the fourth day, the "objective" true-false and completion questions were given; and on the fifth day personal interviews were conducted by boards composed of Government officials and outside experts.

In 1952, the Government appointed a Civil Service Committee headed by one of the ministers to examine the administration, increase efficiency, eliminate duplication and unessential activities, and establish organizational regulations for each ministry. The Committee's approach, however, was one of sheer retrenchment without penetrating into fundamentals. It recommended mainly dismissals and reduction in size of staffs, and arbitrarily transferred a number of departments and divisions from one ministry to another and consolidated several different agencies with like functions. This haphazard arrangement lasted only a year. The Commissioner resigned, and the Advisory

⁴ James G. McDonald, *My Mission in Israel, 1948-1951* (New York: Simon and Schuster, 1951), p. 143. See also, Edwin Samuel, "Spoils Systems," *HaMinhal: The Public Administrator's Quarterly* (Index to 1956), 5-6.

⁵ Paul Steiner, *Israel Laughs: A Collection of Humor from the Jewish State* (New York: Bloch Publishing Co., 1950), p. 71.

Committee disbanded. No replacement was made for over fifteen months, until January, 1954, when a senior official in the State Comptroller's Office was appointed Commissioner.

Drafts of civil service legislation were prepared in 1953 and 1955, proposing a broad merit system, but political pressure and expediency prevented any action to pass them. Finally, in 1959, the Knesset enacted the Civil Service (Appointments) Law⁶ which required civil service appointments to be made on merit and qualifications for existing positions as they become vacant and for new positions. The law required also public announcements for examinations, Israeli citizenship, written examinations in most cases, and proof of medical fitness. The single Civil Service Commissioner was retained; and a new Civil Service Committee was established, consisting of the Commissioner, three directors-general of ministries, and three non-state employed persons, to consider problems and to administer the civil service pension system. In addition, a Civil Service Advisory Council was created, consisting of the deputy directors-general for administration of the various ministries to advise on civil service administrative problems, such as direction of manpower, grading, salaries, and severance pay. Policemen and temporary employees were not brought into the merit system. Enacted the same year, the Civil Service (Limitation of Party Activities and Fund-Collecting) Law⁷ imposed political limitations on civil servants, especially in the senior grades, prohibiting engagement in political party activities and collection of funds.

The Commissioner heads a bureau-type organization consisting of a Regulations Division, which prepares and issues civil service regulations; an Organization and Methods Service to study organizational structures and arrangements and also work methods and procedures; an Establishment and Planning Division that studies and recommends merging or separation of administrative units, expansion or curtailment of services, and addition or elimination of positions; a Training Division which develops and conducts training programs for civil servants and publishes public administration literature for study and informational purposes; an Office of Job Analysis to classify and describe all civil service positions for governmental and public use; and a Disciplinary Court functioning as an independent body within the Commission to deal with complaints against civil servants warranting disciplinary action and which can impose such penalties as demotion, withholding of increments, dismissal, and disqualification for further governmental service. If a criminal charge is involved, the

⁶ *Israel Government Year Book*, 5720 (1959/60) (Jerusalem: The Government Printer, January, 1960), pp. 115-16.

⁷ *Ibid.*, p. 115.

case is referred to the police. A Deputy Commissioner assists the Commissioner in directing the agency's activities; and two regional directors supervise civil service operations in their regions.

As of March 31, 1959, the number of civil servants employed by the national Government, excluding school teachers — who, though paid with national funds, are municipal employees — regular military service personnel, and civilian employees of the military establishments, amounted to 44,893. Of this total, 20,352 were in administrative grades, 7,001 in professional grades, 7,215 were police, guards and prison wardens, and 10,325 were laborers. At statehood, there were 3,000 employees. By 1950, the number rose to 15,000, doubled by 1953, and climbed to 40,000 in 1956. In the same period, 1948–1959, the population about trebled, reaching 2,000,000.

Civil servants in Israel work longer hours and receive lower pay than their counterparts in Western countries. This is especially true in the case of middle and senior levels of administration. The forty-seven hour week generally prevails, an increase of seven over the work week of the Mandate period; but for senior officials there is no limit. Similarly, the professional class works many more hours than the lower levels, but draws a small disproportionate differential in salary. Pensions were established in 1955, and retirement at the age of sixty-five is mandatory unless one's services are vitally essential to the state. A Civil Service Union, created shortly after statehood, signed an agreement with the Provisional Government in February, 1949, providing for tenure protection and permitting dismissals only after negotiation with the Union and principally on a seniority basis. By being affiliated with the Histadrut, the Union in effect made the former a partner in determining and protecting conditions of civil service employment and dismissal. For the civil servant, additional benefits are obtained through Histadrut's health services and rest homes.

The low pay of the professional class and senior administrators hurt even more because employees of the Government companies were receiving higher salaries. Acknowledging the loss of morale and incentive among the professional and senior administrators, a committee was formed in November, 1954, to examine into civil service salaries. In the meantime, the following March, Government lawyers, including all the prosecutors, went on strike for pay raises. The Guri Committee, named after its chairman who was also the chairman of the Knesset's Finance Committee, recommended increasing the salaries of the professional grades and the senior administrators and equalizing the salaries of the civil service and the Government companies. Although the Cabinet adopted the Committee's recommendations in August, 1955, it failed to carry them out, and later insisted that the emer-

agency created by Soviet shipments of arms to Egypt made it impossible to grant the full increases promised. On February 7, 1956, 8,000 Government-employed architects, engineers, physicians, and senior civil servants went out on strike to force the Government to grant the agreed raises. In protest against the Cabinet's reluctance to keep its promise, the Minister of Justice, who was leader of the Progressive Party, resigned from the Government. Two weeks later, the Cabinet gave in and agreed to make payment in 1957 and to reimburse the strikers for the loss in pay while on strike. In June, 1956, the Government took the first step to equalize the salaries of the civil service and Government companies.

Control of Administration

Control of administration is exercised by the Prime Minister's Office, the Knesset, and the courts. In the budgetary process, a combination of executive and legislative controls operates.

Executive Control

The Prime Minister's Office⁸ is responsible for the coordination and control of the ministries in their administrative operations. The Secretary to the Government coordinates certain activities of the inter-ministerial committees; and the four permanent Cabinet committees coordinate the administrative operations of the ministries in respectively assigned areas. One, the Committee on Economic Affairs, deals with economic activities, including budgets, taxation, banking, housing, transportation, industrial, and commercial development, and state property. Another, the Committee on Foreign and Security Affairs coordinates defense, security, and foreign policy activities. The Committee on Internal Affairs supervises local governmental administration, town and rural planning, education and culture, health, social welfare, radio broadcasting, immigration, police and prison administration, religious affairs, and the administration of the courts and the Government's prosecution system. A fourth, the Committee on Legislation, coordinates the legislative programs of the various ministries and drafts bills of legislation to be presented to the Knesset.

In the Prime Minister's Office, in addition, are: a Complaints and Petitions Section which considers complaints and grievances against the ministries; a Technical Assistance Department that coordinates the requests for technical assistance submitted by various ministries and

⁸ Edwin Samuel, "The History of the Prime Minister's Offices in Israel," *HaMinhal: The Public Administrator's Quarterly in Israel* (Index to 1953), 5-6.

administrative agencies and supervises the rendering of such assistance by foreign experts, and also oversees the sending of Israeli professionals and technicians to study abroad; and a Director of Information Services who coordinates the publicity functions of the various ministries and administrative agencies.

Legislative Control: The State Comptroller⁹

Control of governmental administration by the Knesset is exercised primarily through the State Comptroller's Office, an agency resembling the General Accounting Office in the United States. This supreme auditing and control authority was established by the Knesset in 1949, headed by the State Comptroller, who is appointed by the President of the State on the recommendation of the House Committee of the Knesset for a term of five years. Once appointed, the State Comptroller, in carrying out his functions, is responsible only to the Knesset and is entirely independent of the Government and its administrative agencies. The law subjects the entire financial economy of the state to his control. This applies to every Government office, every enterprise or institution of the state, all persons or bodies holding, other than by contract, any state property or exercising its management or control on behalf of the state, and all local governments, enterprises, institutions and agencies assisted financially by the Government in any way or in which the Government has a share.

The State Comptroller conducts continuous, periodical and spot inspections to determine whether each expenditure has been incurred within its legal limits of appropriation, purpose, and disbursement procedure with proper accounting records, and whether operations have been economical and efficient in work performance and utilization of personnel. He may recommend changes in work and accounting systems, and he may request regular and special reports. In addition, he may require explanations for transactions not deemed in accordance with the law or with the principles of efficiency, economy, and probity. His office may require any person to appear for questioning or to produce documents in his possession. Where serious defects are found, the State Comptroller may ask the Knesset's Finance Committee to appoint a special commission of inquiry. He reports regularly to the Finance Committee, which submits a summary to the full Knesset on the operations, expenditures and programs of the various ministries and their administrative departments and agencies, including the recommendations and resulting progress for the rectification or prevention of defects.

⁹ The State Comptroller Law (Consolidated Version) 5718-1958, *Laws of the State of Israel*, XII (5718-1957/58), 107-15.

Its annual report is the State Comptroller's Office's key device for obtaining information on public administration and for bringing recommendations before the Knesset. All ministries and every governmental agency and institution must submit to the State Comptroller each year by July 31 a detailed report of income and expenditures, a statement of assets and liabilities, and any other information required by the Comptroller. The Ministry of Finance, the sole exception to this deadline, is required to submit by September 30 a general report on the state's income and expenditures, and by December 31 a balance sheet of the state's assets and liabilities. By the latter date, the State Comptroller must submit his annual report to the Minister of Finance for review and comment; and by February 15, the annual report is required to go to the Finance Committee of the Knesset for study and for proposals to the full Knesset for ratification and action.

In the early years, the Minister of Finance regarded the State Comptroller with suspicion, and the Knesset's Finance Committee gave little attention to the annual reports, with the result that these important studies of the status of public administration were practically ignored. This attitude has changed, and relations are now not only friendlier but there is a growing awareness that the State Comptroller's Office is the single most valuable agency for assessing and improving administration. Consequently, when the Knesset urges the Government to heed the criticism and recommendations of the State Comptroller, prompt action generally ensues. In October, 1958, on a recommendation by the State Comptroller contained in his annual report and a proposal by the Finance Committee, the Knesset requested the Government to establish a special committee composed of senior Government officials to accelerate the remedying of recurring defects especially in the state economy and administration. The Government appointed such a committee; and in June, 1959, the committee issued a report recommending the introduction of permanent procedures to ensure that the results of investigations and inspections by the State Comptroller would be followed by effective rectifying measures.

The Budgetary Process: Executive-Legislative Control

Israel's budget is fixed by law. No new taxes may be imposed or existing ones increased except by legislation. Appropriations for the Government, Knesset, judiciary, and other elements of the state are made by the Knesset based on budgets submitted by the Government. Each ministry and other governmental agency submits its proposed annual budget estimates to the Ministry of Finance, whose Budget Department, after making changes it considers neces-

sary, consolidates the estimates into a budget of expected income and expenditures, in breakdown form with detailed justifications, and presents it to the Cabinet for consideration and approval.

When approved by the Government, the budget, together with the pertinent accounts and justifications, is submitted to the Knesset's Finance Committee for study and recommendations. The Committee drafts a budget bill and submits it to the full Knesset for a first reading, during which groups of ministers are called to explain and justify their estimates. After return to the Committee for further consideration and changes, the budget receives an item-by-item discussion in Committee. A second reading of the revised budget bill by the Knesset itself may lead to further changes. A final drafting by the Committee brings the budget bill back to the full Knesset for a third reading and for vote. As passed, the annual budget law authorizes expenditures within the limits laid down by the Knesset, and any deviation from those limits must be authorized by the Knesset. It is only after the budget bill is enacted that the State Comptroller can perform his external audit and control work to ascertain whether the administrative agencies are complying with the terms of the budget.

In the budgetary process, the Minister of Finance firmly controls both the formulation and execution of the budget. He may, under the provisions of the budget laws, transfer funds from one budget item to another, except when certain large amounts of money over a figure specified in the laws are involved, in which case approval of the Knesset's Finance Committee is required. In this manner, the Ministry and the Knesset Committee can exercise a substantial degree of control over the various units of governmental administration by determining what programs will be given particular sums of money for execution and which programs will be curtailed or eliminated. Yet the Knesset has not fully developed its budgetary authority to a point enabling it to exert an effective degree of control of administration. Too frequently, the Knesset has been unable to prevent the Government from spending more than authorized by enacted budget law, and has been agreeable to approving supplementary budget legislation to bail out the Government.

Judicial Control

Public administrators are subject to the same law that the common citizen is. There is no separate body of administrative law and administrative courts, as exists in France, to handle cases involving the behavior of administrators in the course of performing official duties and exercising official authority. The rule of law prevails, and the ordinary courts stand available and ready to ensure that

administrative agencies and officers interpret the laws correctly and that their decisions and actions are lawful and within the bounds of granted authority or reasonable discretion.

Administrative Problems

Governmental administration in Israel has a number of major weaknesses. Underlying them are such factors as the brevity of the country's existence as a state, the huge influx of immigrants from a great number of lands with different cultural environments, the constant threat of invasion by hostile surrounding nations, a dependent economy, and Israel's political way of life — the proportional list system of representation, multiplicity of parties, excessive political patronage, and coalition Governments consisting of more than four parties.

The major weaknesses are: (1) shortage of trained manpower, especially senior administrators and management experts, the latter particularly in the State Comptroller's Office; (2) absence of a comprehensive program to recruit potentially talented employees and to train them for promotion to future senior civil servants; (3) filling of the positions of directors general, who direct the departments and bureaus in the ministries, through political patronage, too frequently with people lacking administrative experience; (4) inability of the Prime Minister to exercise effective coordination of governmental administration because the central committees of the political parties, being older than the state, decide not only who will be Cabinet ministers and deputy ministers but also who will fill the key administrative positions; (5) insufficient delegation of authority to subordinates by ministers and top administrators who owe allegiance to the political parties; (6) overexpansion of central offices without augmenting staffs proportionately and failure to open sufficient field offices, resulting in the increase of the span of control far beyond efficient supervisory capacities; (7) multiplicity of committees and representation of a variety of opinions, in the Zionist tradition, with the result that senior officials too often exhibit indecision, overcompromise, and inability to assert authority; (8) inadequate planning and complicated procedures preventing adequate analysis and estimation; (9) overlapping of activities of the Government, Histadrut, Jewish Agency, and other Zionist organizations and the holding of key positions by Government officials in a number of such competing bodies simultaneously; (10) lack of a comprehensive set of understandable administrative regulations and orders to guide all the ministries' staffs in their official activities and to define clearly their responsibility and authority at all levels;

(11) inadequate quarters for governmental agencies and primitive housekeeping; (12) divided direction of personnel between the Government and the Histadrut because of the political power of the latter with which the Civil Service Union is affiliated; and (13) poor relations between administrative officials and the public.

One of the most glaring weaknesses is too great a division of functions among separate ministries, especially in economic matters. Another is the conglomeration of agencies assigned to the Prime Minister's Office. A first step could well be the transfer of those agencies which do not serve in any management and coordination capacity, such as the Israel Broadcasting Service, National Council for Research and Development, Government Tourist Corporation, and Central Bureau of Statistics, to appropriate ministries.

The State Comptroller's Office itself is guilty of performing both the accounting and post-auditing functions. In Western countries, the responsibility for analyzing current administrative activities is assigned to an executive body while the function of checking afterwards for legality and for efficiency and economy of performance is given to a legislative agency. Such a separation should have as one of its prime purposes the strengthening of the Prime Minister's Office as coordinator of governmental administration. In connection with financial aspects of coordination, it would improve the budgetary system to combine the separate budgets and to have the ministries' estimates itemized in terms of programs rather than structural units. Finally, a major step forward would be to bring the Government companies, now "untouchable," into the area of executive and legislative control and to require their budgeting to be included as part of one overall budget of the Government.¹⁰



SUGGESTED READINGS

Arian, D. "The First Five Years of the Israel Civil Service," pp. 340–77 in *Scripta Hierosolymitana*. (Publications of the Hebrew University, Vol. III) Jerusalem: The Magnes Press, 1956.

¹⁰ See Audrey Gray, "On Office Management in the Israeli Civil Service," *HaMinhal: The Public Administrator's Quarterly* (Index to 1955), 12–14, and State Comptroller's Office, *Annual Report No. 9 of the State Comptroller for the Fiscal Year 1957–1958, Selected Chapters* (Jerusalem: The Government Printer, February 15, 1959) for a brief account of some of these administrative problems.

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- Ault, O. E. *Report on Training of the Civil Service of Israel*. New York: United Nations Technical Assistance Programme, 1953.
- Janowsky, Oscar I. *Foundations of Israel: Emergence of a Welfare State*. Princeton: D. Van Nostrand Co., 1959.
- Mailick, Sidney. "Organization for Personnel Management in Israel," *Public Personnel Review*, XXIII (January, 1952), 28-35.
- Samuel, Edwin. *Problems of Government in the State of Israel*. Jerusalem: Rubin Mass, 1956.

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Local Government

No fundamental legislation has been passed by Israel to establish its own system of local government.¹ The only enactments by the Knesset with regard to local authorities have been amendments to the Municipal Corporations Ordinance of 1934, Local Councils Ordinance of 1941, and Village Administration Ordinance of 1944, the three Palestinian ordinances promulgated under the Mandate which even today form the legal basis for local government in Israel.

In the Mandate period, municipal corporations were authorized for the large and medium-sized cities, local councils for the towns, and village councils for the rural settlements. Israel follows the same scheme but has added a fourth type of local government, regional councils. The regional councils evolved out of the grouping together of Jewish villages during the Mandate days for mutual defense and aid, and have replaced the individual village councils. Villages now send representatives to these regional councils which administer services for all their component villages.

At the end of 1948, there were eight municipalities, twenty local councils, four regional councils, and two village councils, a total of thirty-four local governments. Ten years later, there were twenty-one municipalities, ninety-five local councils, fifty regional councils, and one village council, a total of 167 local authorities. The number of cities nearly trebled; the local councils increased nearly five-fold; the regional councils multiplied more than twelve times; but the village councils decreased from two to one. Since statehood, 133 new local governments were established. Excluded from these figures

¹ Section 4 of the Law and Administration Ordinance, 5708-1948, provided: "The municipal corporations, local councils and other local authorities shall continue to act within the areas of their jurisdiction and scope of their authority." *Laws of the State of Israel*, I (5708-1948), 8.

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are the several Bedouin Arab tribal villages which have their own laws and councils of elders.

Establishment of Local Governments

Local governments are created by the Ministry of the Interior.² The Ministry guides settlements into becoming local authorities and has discretion in appointing their governing council until elections are held. In many cases, the Ministry attaches a growing settlement to an existing local government so as to train its leaders for eventual local authority status.

Local Elections

Local elections,³ conducted to elect members to local legislative councils for four-year terms of office, are universal, direct, secret, and proportional, and are held on the same day as the national election for the Knesset.⁴ A local authority's area is considered a single constituency, and voters vote for party lists rather than for individual candidates. In general, the same parties which compete nationally also compete locally.

Tax and property qualifications for voting eligibility in local elections, which existed under the Mandate, were abolished by Israel. All persons of eighteen years of age or over by December 31, preceding registration day, who have at least six months local residency and have registered are eligible to vote in the local elections. Candidates for local council office must be twenty years or older by the same date, residents for at least six months, and registered for voting purposes in that local authority.

The composition of local legislative councils varies according to the population of the local authorities. Localities with up to 5,000 people generally have a council of nine members; those between 5,001 and 25,000, nine to fifteen members; from 25,001 to 100,000, fifteen to twenty-one members; and those over 100,000, twenty-one to thirty-

² All Israeli amendments to the Mandate ordinances on local government designate the Minister of the Interior as the inheritor of the powers of the Palestinian High Commissioner.

³ Municipal Corporations Ordinance (Amendment) Law, 5709-1949, passed on January 17, 1950, *Laws of the State of Israel*, IV (5710-1949/50), 29-52.

⁴ Municipal Elections (Temporary Provisions) Law, 5715-1955, enacted on March 31, 1955, *Laws of the State of Israel*, IX (5715-1954/55), 58-60.

one members.⁵ Chief executive officers of local governments during the Mandate period were appointed by the High Commissioner for Palestine. Israel made such positions elective, not by the people but by the elected local legislative council from among its members. Mayors and deputy mayors of municipalities, consequently, are elected by the municipal councils from among their members. Presidents and vice presidents of local councils, however, may be either elected in similar manner by their local legislative councils or appointed in some manner as provided by the Ministry of the Interior in its order establishing the local council form of government.

Local election results generally parallel the national ones. Coalitions are formed around the leading party to elect the chief executive and his deputy, and the designation of chairmen and members of the committees⁶ in the legislative councils. These selections are the subject of bargaining, appeasement and expediency, and deals. In the local elections of 1959, the mayors elected in the four largest cities — Tel Aviv, Haifa, Jerusalem, and Beersheba — were all of the Mapai Party, reflecting Mapai's nation-wide victory. Nine years previously, the mayor of Tel Aviv was a General Zionist, and the mayor of Jerusalem was a member of the orthodox United Religious Front.

Local elections may be voided by the district courts if illegal activity occurs warranting such a decision. In the elections of 1959, the district courts invalidated the elections in two cities, Jerusalem and Rehovot, because of improper exclusion of fifty ballots in the former and bribery of voters by certain candidates in the latter. New elections were ordered by the district courts.

Authority for Self-Government

The Mandate administration granted localities little authority for self-government. While local governments were given the power to enact ordinances and to appoint local administrative officials, the High Commissioner retained the authority to rescind local ordinances and to remove local officials. District commissioners functioning directly under the High Commissioner supervised local authorities but discouraged and withheld home rule powers. Although Israel has been more liberal than the Mandatory regime, local government in Israel has not been granted sufficient authority for effective self-rule. The

⁵ Municipal Corporations Ordinance (Amendment) Law, 5709-1949, *ibid.*, 30.

⁶ Municipal Corporations Ordinance (Amendment) Law, 5715-1955, passed on June 7, 1955, *Laws of the State of Israel*, IX, *ibid.*, 105-114.

Minister of the Interior has been given too much of the authority and discretion possessed by the High Commissioner. Not only does the former establish local governments, determine their geographical boundaries and control their by-laws, ordinances and regulations; but he also appoints their first legislative councils until elections are held, reviews and approves their budgets, including estimated revenues and proposed expenditures, and limits their sources of revenue. He decides — in coordination with the Minister of Finance — whether to make grants-in-aid and other allocations to local governments, approves all contracts of local authorities despite prior general budgetary approval, sets priorities for public works projects of local communities, establishes natural preserve areas, and sets aside land for agricultural development.

Local authorities exercise authority generally by means of by-laws approved by the Ministry of the Interior under which they promulgate ordinances providing for such services as water, construction and maintenance of housing, roads and parks, slaughtering of animals, sanitation, and markets. These by-laws and ordinances are enacted by the local legislative councils on proposals of their operating committees. In many instances, town clerks have been appointed by local legislative councils to handle some of the housekeeping services; but no authority has been given them to perform any of the more important administrative functions.

Expansion of Local Functions

As the population grew rapidly and the country was transformed industrially, commercially, and agriculturally, the demands on local government for services increased tremendously. Local governmental expenditures more than trebled in the period 1948–1959. The major functions of local authorities may be categorized as local services, local enterprises, state services, and administration. Local services are those managed wholly by local government, such as sanitation, construction and maintenance of public buildings, parks and roads, and, in the case of rural areas, agricultural services. Local enterprises are those operated entirely by local government, such as water works, housing developments, and markets. State services are those services financed partly by grants of the national Government and administered for the latter, such as education, health, religious affairs, and social welfare. Administration includes activities of the local legislative councils, chief executive officers, and town clerks, and include tax administration, licensing, and other administrative functions. Interestingly, the police service, which was largely a local municipal function in the Mandate period, is wholly a national function in Israel.

Financing Local Government

Approximately 70 per cent of Israel's population live in urban areas. About 40 per cent reside in the three largest cities — Tel Aviv, Haifa, and Jerusalem. All twenty-one municipalities account for over 80 per cent of the country's total expenditures for local government and employ over 85 per cent of all the employees of local government. Again, nearly two-thirds of all these employees are in the employ of the three largest cities.

Local governments generally prepare ordinary and development budgets. The former provides for the local services, local enterprises, state services, and administration, while the latter provides for public works projects to relieve unemployment, construction of water works, and other developmental construction activity. More than one-fourth of all local expenditures, both types of budgets included, are financed by grants and loans from the national Government. The largest expenditures are for services financed in part by grants of the national Government, such as for education, social welfare, health, religious affairs, and general administration. With regard to education, the national Government grants local authorities the costs of the net salaries of the elementary school teachers; and in social welfare, it makes grants for local extension of aid to needy families, for maintenance of children in institutions, and for aid to immigrants in camps in local areas. Concerning health and religious affairs, the national Government furnishes financial aid to the local governments for operating hospitals, clinics and child welfare stations, and for maintaining local religious councils.

Grants by the national Government to the local authorities amounted in 1959 to 12,955,004 pounds (\$7,125,250). They consisted mainly of four different categories of funds: (1) direct allocations of 2,646,000 pounds (\$1,455,300); (2) 3,850,000 pounds (\$2,117,500), representing a return of 5 per cent of the purchase tax collected by local governments for the state; (3) 2,332,750 pounds (\$1,283,000), 50 per cent of the national amusement tax; and (5) 3,750,000 pounds (\$2,062,500), constituting half of the motor vehicle license fees collected by local authorities for the state. In general, the revenue of local governments is derived from taxes, fees, and licenses either nationally imposed and locally collected or wholly local in nature. In the latter case, all such local levies require prior approval by the Ministry of the Interior, and include property taxes on owners of buildings and land; occupancy taxes on occupants of buildings and land; service taxes on users of sanitation, water, beaches, education, and other public services; company profits taxes; and fees

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for retail liquor stores, bicycle and dog licenses, and various certifications.

Supervision of Local Government

Local governments are supervised by the Ministry of the Interior for the national Government and by the State Comptroller's Office for the Knesset. Supervision by the former encompasses guidance, assistance, and approval or disapproval of budgeting, accounting, taxation, operation of enterprises, construction of public works and housing, and provision of services. Supervision by the State Comptroller consists of inspections for legality, economy and efficiency, and recommendations for changes and additions to improve local governmental operations.

In the Ministry of the Interior there is, besides a Local Government Department, a Municipal Research Office which was formed in 1956, composed of representatives of the Central Bureau of Statistics, the Hebrew University, and other professional agencies, to study long-range problems of municipalities and collect and analyze data on local economic affairs. It is especially concerned with municipal taxation, fiscal relations between the national and local services, and planning for municipal enterprises. Another advisory body, the Local Government Council, exists for broader purposes than the Municipal Research Office. The Council advises the Minister of the Interior on legislation as well as taxation and finances and on all local authorities not only municipalities. It has forty-eight members including the Minister of the Interior, who is the chairman; the director general of the Ministry of the Interior and five other officials appointed by him; one representative each from the Ministries of Education and Culture, Finance, Health, Justice, Labor, and Social Welfare; the mayors of three cities and their principal deputies; five executives and deputies of local councils; four representatives of regional councils; and sixteen members of the public appointed by the Minister of the Interior. The most important task undertaken by this Council is its present drafting of a local government bill to be submitted to the Knesset which will replace the obsolete Mandate ordinances.

Arab Local Government: A Special Problem

In 1948, there were only three Arab local governments. Today there are nineteen, the largest being the City of Nazareth, whose mayor generally is an Arab. It is estimated that 106,000 of Israel's 213,000

Arabs live in these nineteen areas. During the Mandate period, the Arab communities in the main were furnished their health, education, and welfare services by the central Mandatory administration while the Jewish communities furnished such services themselves. Israel provides these services for Arab and Jewish communities, but local tax revenues in the Arab communities are so low as to require extra financial aid from the national Government in the form of grants and loans.

Utilities, roads, and water are especially needed in Arab areas. Trained Arab administrators are another urgent need, one which will probably take a long time to fill because of the flight in 1948-1949 of nearly all the Arab leaders and also because of the reluctance to support the Israeli state. Disruption of the Arab economy has never been overcome, and unemployment and poverty are serious problems. Military rule in Arab areas has further complicated the problem.

Strengthening Local Government

To strengthen local government in Israel, several steps will have to be taken. The Knesset should enact fundamental legislation governing the establishment of local authorities, granting them more home rule, and defining clearly national-local legal and financial relations. This would remove many powers and responsibilities now possessed by the national Government and give them to the local authorities. Along this line, a sharp separation must be made between national and local services, and local funds should be entirely detached from the state budget and the national treasury. The national Government will have to divide all public services into two categories, one for national development projects and the other for local government functions. Those projects assigned to the national Government should be financed and maintained wholly by the national Government itself, while those functions assigned to local governments must be borne by the latter. To enable local governments to bear this financial burden and remain solvent, additional sources of revenue will have to be found for them. The present system of granting short-term loans to local authorities by the national Government has added to the former's financial burden. In many countries, local governments are extended long-term loans for development purposes repayable in sixty to ninety years, whereas in Israel loans for similar purposes are given for a period of ten to twelve years.

Moreover, the review of local budgets by the Ministry of the Interior is accomplished too late. This should be performed amply before a new fiscal year has begun, not after. Such occurrence prevents sound,

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coordinated financial planning. Local governments are equally at fault in submitting their budgets too late for effective review.

Uniformity does not exist either among the local governments in the provision of services or in the national Government's standards for participation in local budgets. Some local authorities furnish services which others rely on the national Government to provide in whole or in part. On the other hand, there is as yet no fixed formula by which the national Government's share in local finances is determined.

In most Western countries, local politics is the schooling and training arena for future careers in national politics, and local political office is regarded as important. In Israel, political aspirants ignore local politics and vie at once for national position. As a result, members of local legislative councils generally have not been noted for quality. Training in local government is essential and should be part of a national program to develop local administrators. In this connection, it would appear wise to consider the employment of city managers to provide the administrative direction and coordination needed. Many local public enterprises are poorly run because of the lack of competent personnel. On April 3, 1955, the national Government was forced to dissolve the municipal council of Jerusalem because of maladministration and ineptness. The need for trained local executives and councillors continues to grow. Perhaps more forceful intervention by the national Government to dissolve corrupt and incapable local legislative councils is in order.



SUGGESTED READINGS

- Adler, Matitiah. "Central Government or Local Self-Government," *HaMinhal: The Public Administrator's Quarterly* (Index to 1956 Volume), 9-11.
- Samuel, Edwin. "Local Government in Israel." *Israel Youth Horizon*, IV (November-December, 1953), 5 and 27.
- State Comptroller's Office. *Annual Report No. 9 of the State Comptroller for the Fiscal Year 1957-1958, Selected Chapters*. Jerusalem: The Government Printer, February 15, 1959. Pp. 173-89.

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Foreign Policy

The Cabinet as a whole is responsible to the Knesset for foreign policy, with the Minister of Foreign Affairs formulating its fundamental lines of implementation and making appropriate decisions for its execution. Vested with powers formerly held by the High Commissioner for Palestine in the Mandate period, the Minister of Foreign Affairs is empowered to sign international agreements and conventions on behalf of the Government, and, under "The Small Constitution," countersigns, with the President, treaties ratified by the Knesset, appointments of Israel's diplomatic representatives, acceptances of accredited foreign diplomatic delegates, and confirmations of foreign consuls.¹

Issues Influencing Foreign Policy

Israel's foreign policy has been governed by six primary issues: (1) Arab nationalism and the hostility of the surrounding Arab states, (2) the struggle between East and West, (3) dependence on foreign economic aid, (4) pressure of outside Zionist organizations, (5) the conditions faced by Jews abroad which affect immigration to Israel, and (6) the need for friendship with the new African and Asian nations. With regard to these issues, the Government's programs have provided: for heavy defense budgets to safeguard the nation's independence against the Arab states; for non-alliance with either East or West and cooperation with any country, regardless of its political system, as long as it does not ally itself against Israel; for obtaining monetary and technical assistance from the United Nations, the United States, Jewish and non-Jewish organizations abroad which are

¹ Sections 6-7, Transition Law, 5709-1949, enacted February 16, 1949, *Laws of the State of Israel*, III (5709-1949), 3.

friendly to Israel; for resistance to the exertion of pressure by Zionist organizations outside of the country attempting to influence domestic and foreign policies; for holding the immigration doors open to all Jews to come and settle in Israel; and for extending technical aid to the new African and Asian states in an effort to win trade and their support in the United Nations.

Complicating Israel's foreign policies has been her reliance on outside sources, especially the United States, for her economic solvency. This dependency has caused Israel bitter controversy and even political crises. Moreover, the generous economic and technical aid extended to Israel by the United States tended to alienate the Arab states and facilitated the Soviet Union's inroads in the Middle East. As a result, the United States has been attempting to win back the confidence of the Arab states by a cooling off in relations with Israel. Because of this competition between the Soviet Union and the United States for the support of the Arabs, Israel blames both countries for the precarious conditions which prevail in the Middle East.

Despite its profession of non-alliance with the East or West, Israel has moved steadily more closely to the West, especially after the Prague and Moscow trials allegedly linking Jews and Zionism with asserted treason plots. Public opinion in Israel mounted so greatly against the Soviet Union that, on February 12, 1953, after a bomb exploded in the Soviet legation in Tel Aviv, the latter broke off diplomatic relations with Israel, and relations between the two states were not resumed until July 20 of the same year.

Although economically dependent on the United States and generally friendly with the Western democracies, Israel has consistently opposed the establishment of any foreign military bases within its borders, and has steered clear of any military alliance aimed against the Soviet Union. Attempting to pursue a policy of balance, Israel, for example, placed itself, on the one hand, on the side of the United Nations when the Korean War broke out in June, 1950, condemned Communist China for aggression, and favored a self-determined, free Korea. On the other hand, Israel recognized Communist China and refrained from endorsing United States policy with regard to Formosa.

This non-alliance policy has been dictated by survival necessity. Actually, Israel views the Soviet Union as an enemy and the United States as a friend. Jews in the Communist nations generally are not permitted to leave to visit or settle in Israel. Letters from Israel to Communist countries bearing stamps depicting Theodor Herzl, the founder of political Zionism, and scenes of Yemenite Jewish refugees settling in Israel have been officially rejected and returned to the senders. Israel is frequently described by the Soviet Union as the

"tool of American imperialism" and a "Trojan Horse" in Africa for the North Atlantic Treaty Organization. Soviet policy is one of espousing the Arab cause against Israel as a means of splitting the Western alliance and of solidifying her position in the Middle East. This has already won her entry and a foothold in the region. Yet, in order to embarrass West Germany and to drive a wedge between her and the other Western states, the Communist nations have offered to cooperate with Israel in the latter's case against Adolf Eichmann, Nazi leader accused of directing the killing of millions of Jews. Ironically, Israel permits the Communist Party to function legally, and there have been Communist representatives in the Knesset, while the Arab nations generally suppress the Communists and are far to the right of Israel politically.

Main Foreign Policy Problems

Israel's main problems in foreign policy involve the country's relations with the Arab states. These deal with the boycott, blockade, and blacklist imposed by the Arab nations, the question of the Arab refugees who fled in 1948-1949, the status of Jerusalem, and drainage and water disputes. An interesting and provoking additional problem concerns the role of Zionism since the establishment of the State of Israel.

Blockade, Boycott, and Blacklist

The armistice agreements of 1949 in large part legalized the truce boundaries; but peace treaties providing for permanent boundaries and acknowledging Israel's sovereignty have never been negotiated or signed. As a result, the frontiers have been the scenes of repeated incidents of infiltration, pillage, murder, and reprisal; and the Arab states generally have refused to recognize Israel and, instead, have imposed a blockade, boycott, and blacklist against her. Israel is in the unusual position of carrying on normal political and economic relations with almost all the nations of the world except with her closest neighbors.

Blockade and War. As part of the blockade of Israel by the Arab states, Egypt restricted the passage through the Suez Canal of both Israeli ships and vessels of other nations carrying either Israeli cargo or cargo destined to Israel. In July, 1951, Israel filed a complaint with the United Nations Security Council maintaining that the right of vessels to pass unrestrictedly through the Suez Canal was guaranteed generally by international law and specifically by Article I of the Constantinople Convention of 1888, which asserted that the Suez

Canal "shall always be free and open, in time of war as in time of peace, to every vessel of commerce or of war, without distinction of flag,"² and by the Egyptian-Israeli Armistice Agreement of 1949, which forbade the exercise of unilateral belligerent rights. Egypt replied that the Constantinople Agreement did not apply in the case of Israel because the Armistice Agreement did not terminate the state of war existing between the two countries; and, as a result, both states retained the rights of belligerency, such as blockade, capture of ships of neutral countries trading with the other party, and seizure of contraband of war.

On September 1, 1951, the Security Council adopted a resolution acknowledging that interference by Egypt with the passage through the Suez Canal of goods bound for Israel was inconsistent with the objectives of peaceful settlement of disputes and the establishment of a permanent peace as called for in the Armistice Agreement of 1949. The Resolution rejected Egypt's contention that the restrictions were necessary for self-defense, and called on Egypt to cease all such interference and to observe the international conventions in force on freedom of passage through the Suez Canal.

In January, 1954, Israel complained to the Security Council that Egypt was interfering with shipping to Israel on the Gulf of Aqaba, a body of water about 100 miles long with a coastline shared by Egypt, Israel, Jordan, and Saudi Arabia. The following September, Israel protested to the Security Council against the seizure by Egypt of an Israeli vessel, the *Bat Galim*, bound for Haifa, and demanded the immediate release of the ship and its cargo and crew. After long debate, Egypt announced in January, 1955, that it would release the crew and free the ship and cargo. While no new resolution was adopted by the Council, its President observed that the majority of members regarded the Resolution of September 1, 1951, as having continued validity, and expressed the hope that agreement between Egypt and Israel for the release of the ship and cargo would be quickly accomplished.

The following year, the raids and retaliatory acts along Israel's borders increased in number and ferocity; and a series of detentions of ships and confiscations of Israeli exports by Egypt involved not only Israeli vessels but also those carrying the flags of other countries. On July 26, 1956, Egypt announced the nationalization of the Suez Canal and its closing to Israeli shipping. This move brought Egypt into conflict with France and Great Britain as well. Although the Security

² For the text of the Convention on the Free Navigation of the Suez Canal, signed in Constantinople, October 29, 1888, see Carol A. Fisher and Fred Krinsky, *Middle East in Crisis: A Historical and Documentary Review* (Syracuse: Syracuse University Press, 1959), pp. 73-75.

Council adopted a resolution on October 13, 1956, again calling for free and open transit through the Canal without discrimination, the threat of war in the Middle East grew. On October 29, Israeli troops attacked, drove deeply into the Sinai Peninsula, and were poised at the Suez Canal. Meeting the following day at the request of the United States, the United Nations Security Council heard proposals to end the hostilities. The same day, whether as part of a coordinated plan with Israel or as a measure to get Israel out of the Suez area, France and Great Britain gave both Egypt and Israel a twelve-hour ultimatum to stop fighting and to withdraw ten miles from the Suez Canal or else they would intervene temporarily and occupy key positions in the Canal area in order to separate the Egyptian and Israeli forces and to guarantee freedom of transit through the Canal. Israel accepted and withdrew, but Egypt complained that this was aggression; and when the Security Council agreed to consider the complaint, France and Great Britain vetoed proposals by the United States and the Soviet Union calling for immediate withdrawal of Israeli forces from Egyptian territory and for a cease fire.

On October 31, French and British troops attacked Egypt with the aim of occupying the Suez Canal area. While the Security Council was powerless to act because of the vetoes, enough votes were cast in the General Assembly to convoke an emergency special session on November 1. A resolution was passed by the Assembly the following day calling for an immediate cease-fire, a halt to the movement of military forces and arms into the area, and a prompt withdrawal of Israeli and Egyptian troops to the armistice line set in 1949, including withdrawal from the Gaza Strip. On November 4, the General Assembly adopted a resolution establishing an Emergency Force to secure and supervise the cessation of hostilities. Both the United States and the Soviet Union supported all these resolutions. By then Israel was in full control of the Gaza strip and the Sinai Peninsula; and within two days Israeli troops had taken Tiran and Sinafir Islands, which are strategically located at the juncture of the Gulf of Aqaba and the Red Sea, and Sharm al Sheikh at the entrance to the Gulf.

As the Emergency Force was being organized, France and Great Britain announced on November 6 that they had ordered a cease-fire to take effect at midnight that day; and two days later, Israel informed the Secretary General that it would withdraw its troops from Egypt when the Force took over. On November 15, the first contingents of the Force arrived in Egypt; and the British, French, and Israeli troops began withdrawing nine days later. Israel did not withdraw from the Gaza Strip until March 7, 1957, and from the Gulf of Aqaba area until March 9. This delay was caused by Israel's insistence on

guarantees that the Gaza Strip would not be permitted to be used by Egypt as a base for raids against Israel, that the United Nations would control, civilly and militarily, the Gaza Strip until a peace settlement was concluded, and that Israeli ships would be allowed freedom of passage through the Gulf of Aqaba. Such guarantees were not given by either the United Nations or by the United States. Instead, Secretary of State John Foster Dulles warned Prime Minister Ben-Gurion that if Israel did not withdraw from all Egyptian territory not only would the United States terminate all financial and technical aid to her but Israel might be expelled from the United Nations. However, President Dwight D. Eisenhower added that if Israel were to withdraw it should not be assumed Egypt would prevent Israeli shipping from using the Suez Canal and the Gulf of Aqaba. Israel agreed to withdraw but declared that she reserved the right to take action if Egypt reimposed the blockade and used the Sinai area as bases for infiltration raids against her.

Although he anticipated opposition from both the United States and the Soviet Union, Ben-Gurion nevertheless felt that it was the opportune moment to take advantage of the British and French interest in removing the Suez Canal from Nasser's control. Israel struck not only before Soviet arms could be fully integrated and mastered by the Egyptians and when Egypt's forces were thinned out, but at a time when the Soviet Union was occupied with Polish and Hungarian uprisings. The American elections, moreover, were one week away; and Israel felt that, for political reasons, the Eisenhower administration would not take any drastic steps against her beyond harsh verbal criticism.

As a result of the Sinai invasion, Israel benefitted by: (1) destroying the nests of Egyptian infiltrators, (2) deflating Nasser's military prestige, (3) neutralizing the Gaza Strip, (4) opening the Gulf of Aqaba to Israeli shipping, (5) linking the problem of Egyptian blockade of Israeli ships through the Suez Canal to the overall problem of peace in the Middle East, (6) severely weakening the treaties of Jordan and Egypt with Great Britain which contained provisions potentially aimed at Israel, (7) and sharply placing the matter of Arab boycott and non-recognition of Israel before world opinion. One of the harmful results of the Sinai attack to Israel was that the invasion practically negated the Tripartite Declaration of May 25, 1950,³ by which France, Great Britain, and the United States had guaranteed Israel's borders against aggression. Israel has since been seeking a revitalization of this Declaration. It has not found it in the Eisenhower Doctrine of March 9,

³ For the text of the Declaration, see Fisher and Krinsky, *op. cit.*, p. 126.

1957,⁴ which asserts that the United States, if invited, will use its armed forces to assist any Middle Eastern state against aggression by any country controlled by international communism. This Doctrine does not provide Israel with any specific assurance of aid against Arab aggression or with any general guarantee of its sovereignty in the event of aggression by countries not controlled by international communism.

The United Nations Emergency Force, created to end the Suez hostilities, has been continued to serve along the armistice demarcation line between Israel and Egypt in the Gaza Strip for the purpose of maintaining peace and order in that area, especially for preventing border infiltrations. It is this temporary international armed force, despite its limited role and its occupation of trouble spots by permission of Egypt, that has done more to keep the peace since the Suez crisis than the permanent Truce Supervision Organization maintained by the United Nations on Israel's borders with the Arab states since the armistice agreements. Israel, in fact, has boycotted the mixed armistice commissions functioning under the Truce Supervision Organization because it feels they are ineffective and biased in condemning her for attacks against neighboring Arab states in violation of the armistice agreements.

The issue of free passage of Israeli ships through the Suez Canal is still unresolved. President Nasser rejects the existence of such a right by Israel; the United Nations takes no action other than to announce that Egypt should not violate international law; and the United States merely hints that the restriction might be illegal but avoids pressing Egypt for any positive final lifting of the blockade. Moreover, Secretary General Dag Hammarskjöld has indicated, after his personal visits to both parties failed, that the question ought to be referred to the International Court of Justice for decision. Israel does not agree to such a test and insists that the Security Council resolutions on the subject should be regarded as binding.

Boycott and Blacklist. The Arab League, an organization of Arab states created in 1945 and now consisting of Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, United Arab Republic (Egypt and Syria), and Yemen, has imposed a boycott and blacklist against Israel. Its members do not recognize Israel or trade with her. Iraq has never signed an armistice agreement with Israel after attacking the latter in 1948 and technically is still at war with Israel. The boycott aims to prevent Israeli goods from entering Arab markets

⁴ For the text of the Doctrine, see Fisher and Krinsky, *op. cit.*, pp. 175-176.

and goods exported out of Arab countries from being re-exported to Israel. It includes even postal matter. Mail to or from Israel found at Arab ports is confiscated.

A blacklist is maintained by the Arab League of firms which do business with Israel, and they are warned by the League of an Arab boycott of their products if they continue in such commercial dealings. The blacklist is a broad one applied also against ships used in trade with Israel, film actors who promote the contribution of funds to Israel or who entertain in Israel, and films which are favorable to Israel, and even against Jews who are citizens of and reside in Arab countries or foreign Jews who wish to work in or do business with Arab lands. Arab League members are equally vindictive against Arab states that break the boycott. Iran, which does not belong to the League and is opposed to Nasser, recently extended *de facto* recognition to Israel. Immediately, the United Arab Republic broke off diplomatic relations with Iran, and the League imposed a boycott and blacklist against her as well. Similarly, Turkish tobacco and cigarettes have been banned in Arab League member states because Turkey has been trading with Israel. A campaign has been initiated by the Arab League, led by Nasser, to counter Israel's relationships with the new African and Asian nations. The Soviet Union, seeking any means of winning Arab favor and of strengthening its position in the Middle East, joined the boycott against Israel in November, 1956, during the Sinai invasion. Maintaining that the step it was taking was to punish Israel for aggression, the Soviet Union cancelled contracts with Israel entered into in 1953 for the sale and delivery of petroleum products to the latter country, and rejected Israeli claims for compensation for the heavy financial losses suffered by having to obtain and transport oil from other sources.⁵

Most impartial economists estimate the damage caused to Israel's economy by the Arab boycott to amount to between thirty and thirty-four million dollars a year, or about 3 per cent of the national income. It can hardly be said that the boycott has been effective as a policy of economic strangulation. On the other hand, the end of the boycott will not, therefore, provide the miracle of making the Israeli economy self-sufficient.

The Arab Refugees

One of the bitterest issues between the Arab states and Israel is that of the hundreds of thousands of Palestinian Arabs who fled Israel in 1948. How this situation arose and the number of such refugees are

⁵ See Martin Domke, "The Israeli-Soviet Oil Arbitration," *The American Journal of International Law*, LIII (October, 1959), 787-806, for a detailed account of this interesting case.

still controversial. The Israeli Government has insisted that the Arab League exhorted the Arabs to flee temporarily in order to wait for the invading Arab armies to conquer the new state and then to return and share in the division of captured Israeli property. Such an exodus was calculated, furthermore, to indicate to the world that the Arabs were being mistreated by Israel, and also to facilitate the invading armies' tactical military operations. Those Arabs who had not fled were marked by the Arab League as traitors and were viewed by the Israeli Government as a potential "fifth column." The Arab states have charged that the flight of Arabs was deliberately fomented by the Israeli Government in order to chase out the majority population and make room for a huge influx of Jewish immigrants. In addition, the fleeing Arabs left their lands and most of their other possessions behind, and Israel rushed to confiscate all of these.

Who the Palestinian Arab refugees are and how many there are of them are uncertain. Since most of them were living in conditions of misery and poverty and many were likely to die of starvation, the United Nations General Assembly on November 19, 1948, created the United Nations Relief for Palestine Refugees (UNRPR) agency to provide immediate relief in the form especially of food, clothing, and fuel to any person in need who had been a resident of Palestine and had lost his home and livelihood as a result of the Arab-Israeli hostilities. On December 8, 1949, this relief organization was succeeded by the United Nations Relief and Works Agency for Palestine Refugees in the Middle East (UNRWA), which the General Assembly assigned the task of developing long-range programs of rehabilitation and a possible permanent solution to the problem. The latter agency's definition of an Arab refugee eligible for relief is one whose normal residence was in Palestine for at least two years prior to the outbreak of hostilities on May 15, 1948, and who, as a result of this conflict, lost both his home and means of livelihood. These definitions were not fully adhered to, because there were many Palestinian Arabs who had some money and other valuables which provided for their needs for several years, and then they became destitute. There were others who had lived on the border and whose homes were cut off from their lands. Many, also, were nomadic and could not prove their Palestinian residency. As for the number of refugees, various estimates place them at from 550,000 to 1,000,000.

All talks on the refugee problem, since they were begun in April, 1949, have ended in deadlock. Israel views the issue as part of the broader question of peace and security, and insists that when the Arab states enter into peace settlements with her, recognize her sovereignty, and end their blockade and boycott, then a practical solution to the

entire refugee problem can be effected. As for the property of the refugees, Israel feels that after deserting their nation in its time of need and joining forces with the enemy, the Arab refugees could hardly press a valid claim; nevertheless, Israel will compensate for such properties if the Arab states themselves would absorb the refugees. Israel's policy is to avoid repatriating the refugees and to induce the Arab states to resettle them. The Arab states, on the other hand, insist that until the Arab refugee question is solved satisfactorily there can be no official discussion of peace treaties or recognition of Israel. Opposed to resettling the refugees in other countries, the Arab nations demand that they be repatriated by Israel and be given full compensation for their properties; and the refugees, once back, should be treated with full equality and must be viewed as Palestinian nationals rather than Israelis. As for Israel's contention that there is no room for the refugees, the Arab states assert that immigration of Jews should cease to permit the repatriation.

The Question of Jerusalem

Jerusalem is holy to three great religions. To the Arabs it is the location from which Mohammed rose to heaven. For Christians, it is the site of the crucifixion of Jesus, His burial and the Resurrection. The Jews recall Jerusalem as the capital of the ancient Kingdom of Israel in the days of David and Solomon with its center the great Temple, of which the Wailing Wall was a part.

The Resolution of the General Assembly of November 29, 1947, providing for the partition of Palestine, called also for a special international regime to be established not later than October 1, 1948, for the City of Jerusalem to be administered by the United Nations Trusteeship Council.⁶ On May 15, 1948, one day after the State of Israel was established the Arab armies invaded, and Jerusalem was under siege for several months; but by July, the Israeli defense forces repulsed the attackers and lifted the siege. The armistice agreements between Israel and Jordan, however, left Jerusalem divided into Arab and Jewish sectors. Old Jerusalem consists of an area little larger than one-third of a mile in which about 50,000 Arabs live under the control of Jordan. New Jerusalem covers nearly ten square miles west of the Arab sector and contains approximately 155,000 Jews under the control of Israel. In addition, there are two small enclaves within Jordan which are designated as demilitarized zones. There are the Hebrew

⁶ Part III, Resolution 181 (II), November 29, 1947, *Official Records of the Second Session of the General Assembly, Resolutions, September 16–November 29, 1947*, A/519, January 8, 1948, 146–50.

University territory in the northeast and the Government House territory in the southeast.

After the siege was lifted, Israel began to transfer its national departments of the Government from Tel Aviv to Jerusalem. On June 28, 1953, the Cabinet ordered all its members to reside in Jerusalem; and on July 12, when the last remaining agency, the Ministry of Foreign Affairs, was transferred there, Israel gave notice that new Jerusalem, and not Tel Aviv, was the official political and administrative capital of the nation. The movement of the Ministry of Foreign Affairs placed the Israeli Government in an embarrassing position with regard to the Western nations represented in Israel, for the latter powers to this day have refused not only to move their diplomatic missions from Tel Aviv to Jerusalem but also to transact official business and attend official and social functions in Jerusalem, except to visit the President of Israel since, in effect, he is not regarded as a political officer.

On December 9, 1949, the General Assembly approved a resolution calling for international control over the entire City of Jerusalem and its environs. The Trusteeship Council, designated the administering authority, was charged with drafting a statute for the international regime for approval by the General Assembly at its following session. In June, 1950, the Trusteeship Council reported to the General Assembly that both Israel and Jordan had refused to cooperate in carrying out the proposed statute. Failing to reach a definite decision, the United Nations in December of that year, conceded temporary defeat; and an attempt in December, 1952, to revive the matter was rejected by the General Assembly. As a result, Jerusalem remains a divided city.

Peace has not yet come to Jerusalem. Israel insists that, since only two of the more than thirty acknowledged holy places are located in old Jerusalem, which is in Arab-held territory controlled by Jordan, its movement of the capital to new Jerusalem does not violate United Nations' resolutions. The two holy places in new Jerusalem, the Cenacle and the Tomb of David, Israel has argued, have been and will be safeguarded and are freely accessible to all visitors. On the other hand, Israel has complained, the provision of the Armistice Agreement with Jordan guaranteeing free access to the Wailing Wall and other Jewish holy sites in old Jerusalem has not been honored. Israel's proposal to the United Nations, consequently, is that, instead of the entire city being placed under an international regime, only the holy sites located in both sectors of Jerusalem should be internationally supervised.

Religion is not the only difficulty involved in the problem. The armistice agreement between Israel and Jordan prohibits the stationing by

either party of more than 2,000 military troops within six miles of Jerusalem's borders and bars such military equipment as tanks, armored cars, or Bren gun carriers within the zone. Israel, nevertheless, has staged military parades in Jerusalem with troops and tanks, insisting that no ammunition was carried in these parades and also that Jordan had been notified but had not protested. The matter, however, was not confined to parades. Both sides have accused each other of fortifying the enclaves. On January 22, 1958, the Security Council adopted a resolution calling on Israel and Jordan to destroy all military installations in the Government House demilitarized zone. Israel charged that Jordan was using the zone as a base for infiltration; and Jordan complained that Israel was building military sites on Mount Scopus but pretending they were tree-planting projects.

Jerusalem's status has not reached the final stage. Israel and Jordan each wants both sectors united under its own control; and the United Nations has not yet written the city off its books. In December, 1960, when Israeli customs inspectors began to examine the personal possessions of members of the United Nations staff entering or leaving the Israeli sector of Jerusalem, strong protest was lodged by the United Nations in fear of new encroachments on the international status of the entire city.

Drainage and Water Disputes

Israel's drainage project in the Huleh marshes area and water supply works on the west bank of the Jordan River have led to serious disputes with Syria. In both cases, Syria complained that water available and essential for irrigation in Syrian territory was being diverted to flow into Israel, and that, in the Huleh project, the proposed canal would cut through lands in the demilitarized zone which were owned by Arabs. Denying both charges, Israel has agreed, on the Security Council's instructions, to suspend temporarily its operations in the two areas, but has warned that any attempt to divert the tributaries of the Jordan River in Syria and Lebanon and cut her water supply would be considered an act of war. Attempts by the United Nations to obtain agreement for joint Arab-Israeli development of the Jordan Valley region have failed.

Role of Zionism

With the creation of the State of Israel, the question logically arose as to what should be the new role of the Zionist movement. Should it disband, since its essential purpose had been accomplished? Should it be reorganized so as to confine itself to economic aid and moral support for the State of Israel? Should it be given a preferred status of influence

in Israel by legislative recognition? Should it represent and speak for Jews outside of Israel on matters pertaining to Israel? These and many related questions have been the subject of heated debate in Jewish communities throughout the world.

Ben-Gurion's view is that Zionism was the "scaffolding" for establishing the state and has now outlived its purpose, and that anyone calling himself a Zionist should settle in Israel. Once a person settles in Israel he is an Israeli, not a Zionist. Zionist organizations outside of Israel have generally rejected such views and insist that there is still a role for Zionism — that of developing the country in its settlement and absorption of immigrants and of promoting financial and other aid for the state. Zionist pressure forced Ben-Gurion to concede the granting legislatively of privileged status in 1952 to the World Zionist Organization to carry on in Israel as the authorized coordinating agency for the immigration, reception and settlement of Jews in Israel.⁷ The dispute between Ben-Gurion and Zionists abroad has caused a number of non-Zionist Jewish groups to oppose the Zionist organizations outside of Israel on the grounds that their activities tend to produce accusations of dual allegiance and to promote anti-Semitism. Arnold Toynbee also has expressed this concern.⁸

Ben-Gurion's blunt and often tactless statements have distressed Zionists outside of Israel, especially in the United States. He has characterized all Jews who do not reside in Israel as living in "galut" or exile, and has sarcastically criticized the orthodox religious Jews who have not supported Israel as violating a Talmudic admonition, "Whoever dwells outside the Land of Israel is considered to have no God."⁹ Zionist leaders in Israel and elsewhere have insisted that Ben-Gurion speaks only for himself on this issue.



SUGGESTED READINGS

Eytan, Walter. *The First Ten Years, A Diplomatic History of Israel*. New York: Simon and Schuster, 1958.

⁷ World Zionist Organization — Jewish Agency for Palestine (Status) Law, 5713–1952, enacted November 24, 1952, *Laws of the State of Israel*, VII (5713–1952/53), 3–4.

⁸ See Benno Weiser, "Ben-Gurion's Dispute with American Zionists," *Commentary*, XVIII (August, 1954), 93–101, and Frederick L. Schuman, "Toynbee and Zionism," *Land Reborn*, VI (February–March, 1955), 4–6.

⁹ See Moshe Bar-Natan, "The Zionist Congress," *Jewish Frontier*, XXVIII (February, 1961), 4–7.

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- Harvey, Mary Frances. "The Palestine Refugee Problem: Elements of A Solution," *Orbis*, III (Summer, 1959), 193–207.
- Hutchison, Elmo H. *Violent Truce: A Military Observer Looks at the Arab-Israeli Conflict 1951–1955*. New York: Devin-Adair, 1956.
- Institute for Mediterranean Affairs. *United States Foreign Policy in the Near East: A Study Prepared for the Committee on Foreign Relations of the United States Senate*. New York: The Institute for Mediterranean Affairs, Inc., 1960.
- Remba, Oded. "The Arab Boycott: A Study in Total Economic Warfare," *Midstream*, VI (Summer, 1960), 40–64.
- Rubner, Alex. *The Economy of Israel: A Critical Account of the First Ten Years*. New York: Frederick A. Praeger, 1960.
- Simpson, Dwight J. "Israeli Policy for Survival," *Current History*, XXXVI (February, 1959), 70–76.

GLOSSARY AND PRONUNCIATION GUIDE

Hebrew is spoken in a variety of accents in Israel. The pronunciation used here is known as Sephardic (Sfar-dik'), a type of Hebrew pronunciation prevalent among Jews of Spanish ancestry which is officially used today by the State of Israel. All the sounds, with one exception, are present in the English language. That exception is the Hebrew "ch," a sound always pronounced like the German "ch" in "Bach," but softer and less guttural. It is never sounded like the English "ch" as in "child." It frequently is spelled in English with an "h" rather than "ch." Words of more than one syllable are most often accented on the last syllable. Otherwise, the next to the last syllable is generally accented.

Achdut Ha'Avodah (Ach-doot' Hah' Ah-voh-dah'), proper noun: Unity of Labor, a left-wing non-Marxist socialist party.

Agudat Israel (Ah-goo-daht' Yis-rah-el'), proper noun: Association of Israel, an extremist orthodox religious political party.

Aliyah (Ah-lee-yah'), singular noun: wave of Jewish immigration to Israel.

Ashkenazi (Ahsh-kuh-na-zee'), adjective and singular noun: a Jew whose origin is Northern, Central or Eastern Europe.

Ashkenazim (Ahsh-kuh-nah-zeem'), plural of Ashkenazi.

Assefath Hanivcharim (Ah-say-faht' Hah-niv-chah-reem'), proper noun: The Elected Assembly which represented the Jewish community in Palestine during the Mandate period acting as its legislative body.

Chalitsa (Chah-lee-tzah'), noun: a religious ceremony freeing a single male from the obligation of marrying the wife of his deceased brother.

Chanukkah (Chah-noo-kah'), proper noun: a Jewish holiday, the Feast of Dedication.

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Cheshvan (Chesh-vahn'), proper noun: one of the Hebrew months.

Dayan (Dye-yahn'), singular noun: judge of a Jewish religious court.

Dayanim (Dye-yah-nim'), plural of Dayan.

Divrei Ha'Knesset (Div-ray' Hah-Knes'set), proper noun: *Proceedings of the Knesset*.

Dunam (Doo'nahm), singular noun, Turkish: measure of land. 1 dunam = 0.2471 acre, approximately $\frac{1}{4}$ of an acre.

Eretz Yisroel (Eh'retz Yis-rah-el'), proper noun: Land of Israel.

Fedayeen (Feh-day-yeen'), plural noun, Arabic: Arab suicide bands of infiltrators.

Galut (Gah-loot'), singular noun: literally means exile, but is the word used to describe collectively all those countries, other than Israel, in which Jews live. The English word into which Zionists translate "Galut" is "Diaspora."

Haganah (Hah-gah-nah'), proper noun: armed Jewish defense force in the Mandate period and early part of statehood.

Halutz (Chah-lootz'), singular noun: pioneer settler.

Halutzim (Chah-loo-tzeem'), plural of Halutz.

Halacha (Ha-lah-chah'), singular noun: traditional Jewish religious law.

HaMinhal (Hah-Min-hahl'), noun: administration.

Hapoel Ha-Mizrachi (Hah-poh-el' Ha' Miz-rah-chee'), proper noun: The Mizrachi Workers, a moderate orthodox religious, labor Zionist political party. See **Mizrachi**.

Hapoel Hatzair (Hah-poh-el' Hah-tzah-eer'), proper noun: The Young Worker, a moderate, non-Marxist organization which merged with Achdut Ha'Avodah in 1929 to form the Mapai Party.

Hashomer Hatzair (Hah-shoh-mehr' Hah-tzah-eer'), proper noun: The Young Watchman, a Marxist socialist Zionist organization which is the major element of the Mapam Party.

Herut (Chay-root'), proper noun: extreme rightist political party. Literal meaning in Hebrew is freedom.

Histadrut (Hiss-tahd-root'), proper noun: the General Federation of Labor, Israel's largest federation of unions.

Irgun Zvai Leumi (Ihr-guhn' Tsvay' Lay-oo-mee'), proper noun: National Military Society, rightist extremist organization.

Israel: the Hebrew pronunciation is Yis-rah-el'; often spelled **Yisroel**.

Kibbutz (Kee-bootz'), singular noun: communal settlement.

Kibbutzim (Kee-boo-tzeem'), plural of Kibbutz.

Knesset (Knehs'set), proper noun: Israel's Parliament.

Kohanim (Ko-hah-neem'), plural noun: descendants of the priestly clan of Aaron, the brother of Moses. Jews named "Cohen" are presumed to be "kohanim."

- Kol Ha'Am** (Kohl' Hah-Ahm'), proper noun: *Voice of the People*, official newspaper of the Communist Party of Israel.
- Kol-Yisroel** (Kohl' Yis-rah-el'), proper noun: Voice of Israel, the Government Radio Broadcasting System.
- Kosher** (Kah-shehr'), adjective: describes foods which are permitted to be eaten by Jews according to orthodox religious law.
- Lohamei Herut Israel** (Loh-chah-may' Chay-root' Yis-rah-el'), proper noun: Fighters for the Freedom of Israel, a right-wing extremist organization popularly known as the "Sternists."
- Mapai** (Mah-pie'), proper noun: initials of Mifleget Poalei Eretz Yisroel (Mih-fleh'-get Poh-ah-lay' Eh'retz Yis-rah-el'), Party of the Workers of the Land of Israel, a moderate, democratic socialist party.
- Mapam** (Mah-pahm'), proper noun: initials of Mifleget Ha' Poalim Hameuchedet B'Eretz Yisroel (Mih-fleh'-get Hah' Poh-ah-lim' Hah'mee-yoo-cheh'det Bih-eh'retz Yis-rah-el'), United Workers' Party of Israel, a left-wing Marxist socialist Zionist political party.
- Mizrachi** (Miz-rah-chee'), proper noun: literally means "Eastern" but is actually a combination of Merkaz Ruchani (Mehr-kahz' Roo-chah-nee') meaning Spiritual Center. This is the name of a moderate orthodox religious Zionist political party.
- Neturei Karta** (Neh-tyoo-ray' Kahr' tah), proper noun: Custodians of the Town, an extremist orthodox religious organization which resorts to violence in attempting to force the Government and the people to observe strictly the tenets of orthodoxy.
- Negev** (Neh' ghev), proper noun: Israel's southern region, largely desert.
- Oleh** (Oh'leh), singular noun: a Jewish immigrant to Israel.
- Pesakim** (Pih-sah-keem'), proper noun: Collection of Decisions of the Courts published by the Israel Bar Association.
- Piskei-Din** (Pihs-kay' Deen'), proper noun: Law Reports of the Israel Supreme Court prepared by the Ministry of Justice.
- Poalei Agudat Israel** (Poh-ah-lay' Ah-goo-daht' Yis-rah-el'), proper noun: Workers of the Association of Israel, an extremist orthodox religious labor political party. See **Agudat Israel**.
- Poalei Zion** (Poh-ah-lay' Tzee-ohn'), proper noun: Workers of Zion, a moderate socialist Zionist organization.
- Poalei Zion Smol** (Poh-ah-lay' Tzee-ohn' Smohl), proper noun: Left Workers of Zion, a left-wing socialist Zionist faction in the Mapam Party.
- Purim** (Poo-reem'), proper noun: a Jewish holiday, the Feast of Lots.
- Reshumot** (Reh-shoo-moht'), proper noun: the *Official Gazette*.

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- Sabra** (Sah'brah), singular noun: literally an edible cactus, but is a term describing a native-born Jew of Palestine or Israel.
- Sephardi** (Sfar-dee'), adjective and noun: a Jew descended from members of the Jewish community of Spain driven out by the Inquisition in 1492 A.D.
- Sephardim** (Sfar-dim'), proper noun: plural of Sephardi; also a political party composed of and representing the Sephardic community in Israel.
- Shabbat** (Shah-baht'), singular proper noun: the Hebrew Sabbath, beginning with the appearance of the first three stars Friday sundown and lasting until the same moment on Saturday sundown.
- Shalom** (Shah-lohm'), singular noun: peace; also an expression of greeting and farewell.
- Talmud** (Tahl-mood'), proper noun: the body of traditional orthodox Jewish civil and canonical law with rabbinically approved commentaries.
- Torah** (Toh-rah'), proper noun: the first five books of the Old Testament collectively, or the Pentateuch.
- Va'ad Leumi** (Va-ahd' Lay-oooh-mee'), proper noun: The National Council which represented the Jewish community in Palestine during the Mandate period, acting as its executive body.
- Yishuv** (Yih-shoov'), singular noun: the Jewish community in Palestine before statehood.

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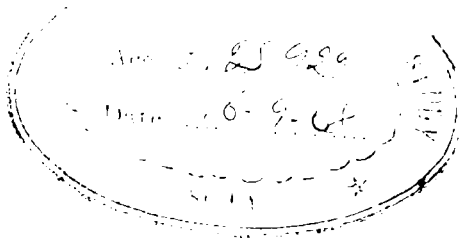
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