Jimmy Carter, Lord Caradon, the Palestine Mandate, and Resolution 242 (Part II)

by Hugh Fitzgerald

Jimmy Carter treats a sentence from the non-binding preamble to Resolution 242 as if it were a binding part of the Resolution itself. He thinks that the phrase about the "inadmissibility of the acquisition of territory by war" applies to Israel, when examination of the Mandate for Palestine reveals that it is Jordan, not Israel, that is claiming territory in the "West Bank" based on its acquisition by war (in 1949). Carter then asserts that the *other* key words of Resolution 242 are these: "**the withdrawal of Israeli armed forces from territories occupied in the recent conflict."** He wants you to think that this means that Israel is required to withdraw from "**all** the territories" that it won in the 1967 war. And indeed, the Arab diplomats at the U.N. sought, repeatedly, to have the words "the" or "all the" inserted before "territories." But they failed.

The chief drafter of Resolution 242 was Lord Caradon (Hugh M. Foot), the permanent representative of the United Kingdom to the United Nations from 1964-1970. At the time of the Resolution's discussion and subsequent unanimous passage, and on many occasions since, Lord Caradon always insisted that the phrase "from the territories" quite deliberately **did not mean** "all the territories," but merely **some** of the territories:

> *Much play has been made of the fact that we didn't say "the" territories or "all the" territories. But that was deliberate. I myself knew very well the 1967 boundaries and if* ***we had put in the "the" or "all the" that could only have meant that we wished to see the 1967 boundaries perpetuated***

> ***in the form of a permanent frontier. This I was certainly not prepared to recommend.***

On another occasion, to an interviewer from the *Journal of Palestine Studies* (Spring-Summer 1976), he again insisted on the deliberateness of the wording. He was asked:

> *The basis for any settlement will be United Nations Security Council Resolution 242, of which you were the architect. Would you say there is a contradiction between the part of the resolution that stresses the inadmissibility of the acquisition of territory by war and that which calls for Israeli withdrawal from "occupied territories," but not from "the occupied territories"?*

Nota bene: "from territories occupied" is not the same thing as "from occupied territories" – the first is neutral, the second a loaded description. Lord Caradon answered:

> *I defend the resolution as it stands. What it states, as you know, is first the general principle of inadmissibility of the acquisition of territory by war. That means that you can't justify holding onto territory merely because you conquered it.* ***We could have said: well, you go back to the 1967 line. But I know the 1967 line, and it's a rotten line. You couldn't have a worse line for a permanent international boundary. It's where the troops happened to be on a certain night in 1948. It's got no relation to the needs of the situation.***

"Had we said that you must go back to the 1967 line, which would have resulted if we had specified a retreat from all the occupied territories, we would have been wrong."

Note how Lord Caradon says that "you can't justify holding onto territory *merely b*ecause you conquered it," with that "merely" applying to Jordan, but not to Israel, because of the

Mandate's explicit provisions allocating the territory known now as the "West Bank" to the Jewish state. Note, too, the firmness of his dismissal of the 1967 lines as nothing more than "where the troops happened to be on a certain night in 1948," that is, nothing more than armistice lines and not internationally recognized borders.

Jimmy Carter thus misreads and misleads, in every important particular, Resolution 242. He misidentifies a statement of principle in the non-binding preamble as among the "key words" of the Resolution itself. He twists the meaning of the phrase "from territories" intended by its chief author, Lord Caradon, to ensure that there would be no retreat to the pre-1967 armistice lines, to "all the territories." He fails to mention the record of Israeli withdrawals from 95% of the territories won in the Six-Day War and the great sacrifice Israel made in giving back to Egypt the entire Sinai peninsula, together with billions of dollars of oilfields, air bases, and the resort at Sharm el-Sheik. He fails to mention that that very Sinai had been the launching pad for Egyptian attacks in 1948, 1967, and 1973, and for thousands of attacks by Egyptian Fedayeen from 1949 until 1956, when the Sinai campaign put an end to them.

Israel might have stopped there, after giving back that 95% of territories won, but chose to give up the entire Gaza Strip as well, closing down all the settlements that had been created there as a defensive barrier, and handing over to the Gazan Arabs extensive greenhouses in the hope that they might make good use of them, but instead the Gazan Arabs chose to destroy them. This is hardly the record of unbroken land grab by the Israelis.

Carter paints a damning picture of Israel as the obstacle to peace by failing to mention any of this yielding of territory. Instead, he complains, "Israel is building more and more settlements, displacing Palestinians and entrenching its occupation of Palestinian lands." Apparently he is unfamiliar with the fact that Jewish "settlements" are approved by the

Israeli government only after a rigorous investigation to see if the land in question is considered to be "state or waste lands" that, by Article 6 of the Mandate, are explicitly to be used for Jewish settlements:

> *The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced,* ***shall facilitate Jewish immigration*** *under suitable conditions and* ***shall encourage, in co-operation with the Jewish agency referred to in Article 4, close settlement by Jews on the land, including State lands and waste lands not required for public purposes****.*

In building on "state and waste lands," there has been no "displacing" of "Palestinians." By definition, "state and waste lands" are those to which no individual has valid title. The procedure for getting approval for a "settlement" from the Israeli government is long and arduous. First, notice is given for private parties to produce evidence of ownership. If no valid titles are produced, the parcel of land is regarded as "state and waste lands." In a few cases, settlements on private land have been deemed legal, but only if they were determined to be a *military necessity*. In those cases, *the original owner retains title to the land and must be paid rental fees for its use.*

That scrupulous reliance on decisions of the Israeli Supreme Court, that solicitousness for the rights of Arab owners, paints a very different picture from that which Jimmy Carter offers of Israel "displacing Palestinians and entrenching its occupation of Palestinian lands." There has been hardly any "displacement," and what Carter calls the "occupation of Palestinian lands" misleads. One more time (it can't be repeated often enough): these are not "Palestinian lands," but territory allocated in 1922 to the Palestine Mandate, which had as its exclusive aim the creation of the Jewish National Home. And Article 6 (see above) required of the Mandatory

(Great Britain) that it both “facilitate Jewish immigration” and “encourage …close settlement by Jews on the land, including State and waste lands.”

The Israeli claim under the Mandate is further buttressed by the requirement, set out in Resolution 242, for “secure and defensible borders.” If Israel were to be pushed back within the pre-1967 armistice lines, with an 8-mile wide waist from Qalqilya in the West Bank to the sea, and lose control of the Judean and Samarian hills, this sliver of a country would have great difficulty defending itself, and would have to remain in a permanent state of high alert, of a degree and kind that no other country has ever been asked to endure.

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