

Secret

401

W. Rafael

PRELIMINARY OBSERVATIONS ON ZEINEDDINE'S SPEECH
AT THE 635TH MEETING OF THE SECURITY COUNCIL ON
10 NOVEMBER 1953 (S/P.V.636)

There is no method of pleading a case that is more reprehensible than that of distorting facts to one's liking so that they may fit into the desired conclusions. This is precisely the method to which Zeineddine resorted yesterday. He falsified the position of Israel, misinterpreted and even misquoted Bennike, and misconstrued the provisions of the Armistice Agreement.

FALSIFICATION OF ISRAEL'S POSITION

Zeineddine summarized Israel's position as follows:

"No right on the part of Syria to object or consent to Israelite action.

"No real authority of the United Nations Chief of Staff such as to make them abide by his decisions.

"No restoration of normal civilian life to the Demilitarized Zone except to assure its control by Israel.

"No international rights of other countries on the international river.

"No relevance of military considerations in an Armistice.

"This is a set of negotiations which leads to only one positive result. That result is the possibility for Israel to act unilaterally in the whole matter and to proceed in the Demilitarized Zone to take the Jordan River away from it." (page 6)

Behind each one of these distortedly presented points looms Syria's supreme attempt to undermine whatever is legitimately constructive in Article V of the Armistice Agreement.

Syria's
"Consent"

Indeed, Zeineddine's first point really refers to Israel's refusal to subject development in the Demilitarized Zone to a Syrian veto already judged in the past by the Security Council as illegitimate.

Chief of
Staff's
Authority

Zeineddine's second point is an utter falsification of Israel's attitude. Israel does not question the Chief of Staff's authority. It is, however, fully entitled under Article V to examine jointly with the Chief of Staff the latter's interpretations of his responsibilities, and in case of differences of opinion to refer the decision to appropriate organs of the United Nations, as indeed the Israel Government and the Chief of Staff agreed to do in the case under consideration. For quite obvious reasons, Syria is interested to begrudge Israel even this elementary right under the Armistice Agreement and general principles of international law.

Normal
Civilian
Life

As for the restoration of normal civilian life, Syria's attitude is well known. Her destructive demands to prevent the establishment of new settlements, the Hula drainage work, and other such development of the Demilitarized Zone is recorded in the official documents of the Mixed Armistice Commission and the Security Council.

International
River

Zeineddine's fourth point refers to the question of Jordan's being an international river. This has been dealt with at greater length in my observations on the Syrian representative's previous speech. Israel has never denied the

legitimate rights of other states to the Jordan. On the contrary, it has on a number of occasions, and in various forums, including the Security Council, expressed its willingness to enter into discussions with the Hashemite Jordan Kingdom on the problem of the Jordan river. Indeed, the Jordan flowing from Israel into Hashemite territory, the two countries are riparian states, and the Jordan an international river as far as they are concerned. Syria, however, is not a riparian state and has no legitimate claims upon the Jordan as an international river. The fact that the Franco-British Agreements of the Nineteen Twenties accord certain rights to Syrians to use Jordan waters does not alter this situation. Thus, in this point also, Zeineddine not only takes it upon himself to misinterpret Israel's position, but also artfully veils the real design behind his misrepresentation - Syria's ambition to become a riparian state on the Jordan, an ambition that can only be fulfilled by territorial expansion.

litary
considerations" Zeineddine is guilty in this point of a rather inept attempt to present Israel's rejection of military advantage claims as a view that military considerations are irrelevant under the Armistice Agreement. We are quite prepared to reaffirm the understanding expressed in Article 11, paragraph 2, that the Agreement was dictated exclusively by military, and not by political, considerations. If so, however, there is hardly any justification for Syria's interference in the normal civilian life of the Demilitarized Zone, or introduction of problems extraneous to the Armistice such as the Franco-British

Agreements, or her thwarted ambition to be come a riparian state on the Jordan River.

VARIANCE FROM BENNIKE'S POSITION

a) The difference between Syria's attitude and General Bennike's position, to which I drew attention in my last memorandum, is also apparent in this speech though Zeineddine makes sure to declare that there exists no such difference. On page 8, he says:

"It appears, however, that there are no differences of view between Syria and the competent United Nations authority in the area. We believe that General Bennike's decision, so far as it goes, is right. We hold, however, that it does not go far enough to meet the actual circumstances."

This is understandable. General Bennike requested a suspension of work until agreement is reached, and, if we may be allowed to interpret his 20 October 1953 letter, until definite obligations are entered into by Israel. Syria, of course, would have preferred that agreement with her were made a specific condition of the project's continuation. General Bennike can be said to be looking for a solution that would permit the continuation of the project in accordance with the Armistice Agreement; Syria would have liked to see the project simply classified as an infringement of the Agreement and unequivocally banned by the Chief of Staff without any possibility of finding an appropriate basis for its continuation within the existing framework of the Armistice Agreement. General Bennike requested a suspension of work for an indefinite

but limited period of time (until agreement is reached); Zeineddine has made it clear that Syria wants the suspension to be definite and unlimited. Syria, of course, still hopes her view that General Bennis's decision did not go far enough would be accepted by the Security Council, which, in such event, instead of guiding the Chief of Staff toward a solution that he and Israel are seeking, and instead of recognizing the request for suspension of work as a stage in a normal process of clarification and adjustment, would see in it the final development that requires mere confirmation. It would make out of a request, the fulfillment of which was as defined by General Bennis in a letter to Mr. Sharrett of 26 September 1953, "to facilitate the proposed clearing of moot points, and if necessary, the examination of the issue by the Security Council", the unnatural solution of a problem, which these concerned thought of resolving by having a path marked out for them by the Security Council.

Israel armed

b) In his previous speech, Zeineddine misquoted General Bennis's reference to the zone becoming a wasteland unless definite obligations were entered into to ensure supply of water for irrigation. This time, he misinterprets a passage out of the Chief of Staff's letter of 20 October 1953 in an effort to score a point by proving that Israel's forces have entered the Demilitarized Zone in violation of the Armistice Agreement. On page 23-25 he states:

"Why does Israel bring in its para-military forces to the demilitarized zone? General Bannike referred to that when he said:

'Israeli workmen have crossed it to build the dyke in the western branch of the river, their power shovels, placed in the river bed and also on Arab land, have piled up boulders and soil on it (these have been to date removed to a large extent); heavy machinery has overturned the ground; trees have been felled.'

And then he comes to the most important element of that quotation where he says:

'Israeli police guarding the site have used an old Arab mill as a bivouac.'

The Israeli police to which General Bannike refers are local police of the Mishmar Hayarden police station. The Acting Chairman of the Mixed Armistice Commission sent a message to the Senior Israel Delegate on 4 September 1951 requesting the removal of the police from the Demilitarized Zone. After he had received explanations regarding the affiliation of the police with the local police station in the Demilitarized Zone, the Acting Chairman formally withdrew the message on 7 September 1951. Since then no reservations have been made by the Chief of Staff concerning the presence of the police in the area. General Bannike makes his statement only to demonstrate that some use was made by Israelis of

Arab land. Zeineddine seizes upon it for entirely unholy purposes.

Arab land

c) When convenient, Zeineddine ignores completely General Bennike's findings, as in the question of Arab-owned land, investigated thoroughly by United Nations observers, after Syria had transmitted to them all the claims and alleged land titles.

The Abandoned

d) On page 26, Zeineddine says:

Mills

"The map shows some Arab mills, which are called abandoned mills. One might be led to believe that those mills had been abandoned by their owners and ceased to operate a long time ago. It is fitting, however, to explain that these mills were only recently in operation. In his note of 24 September, Mr. Sharett referred to one of them as not being operative for a long time. He thus opposed his views to those of General Bennike on the matter. The fact is that these mills were only lately abandoned either because their owners were driven away or because the Israelites had destroyed the dams in the Jordan river which channeled the waters to these mills and furnished them with motive power."

However, General Bennike's views are somewhat different from those suggested by the Syrian representative. In his letter of 20 October, he declared:

"As I had indicated, my investigation on 14 September had been 'rapid' and I had accepted the explanation given to me as merely 'plausible'. I am now in a position to comment both on my statement and on your observations concerning it. Your observations are correct with regard to one of the two mills. On the other hand, the other mill, Tahunat Najmat es Subh, has been in operation this season". (S/3122, page 7)

The Tahunat Najmat es Subh appears on the map and is not marked as abandoned.

MISINTERPRETATIONS OF THE ARMISTICE AGREEMENT

Syria has
no Rights
in D. Z.

Syria's principal aim in her Armistice relations is to create for herself by pressure, misinterpretation and repeated debate in the Security Council, a status within the Demilitarized Zone that was clearly denied her at the signing of the Armistice Agreement.

Overestimating the unawareness of those concerned, Zeineddine resorts himself to a simple method. He presents the equalization of Israel and Syrian rights in the Demilitarized Zone as a postulate (pp. 39, 41). Once he has done that, he proceeds to criticize Israel for not sharing in his falsification of the Armistice Agreement.

The facts are:

- 1) Article V grants Syria no more rights in the Demilitarized Zone than she has by virtue of other Articles in non-demilitarized territory on the Israel side of the international border.
- 2) The Explanatory Note of Dr. Bunche's makes it clear that Syria has no status whatsoever in the Demilitarized Zone. The Note refers to Israeli civilians and Arab, not Syrian, civilians. He speaks of Israeli villages and Arab, not Syrian, villages. The civil administration is to be by Israelis and Arabs, not by Israelis and Syrians.

As I described in greater detail in my note of

25 October 1953 on "Agreement with Syria," the Syrian delegation ^{to the armistice negotiations} did make an unsuccessful attempt to eliminate the distinction between Israel's and Syria's positions in the Zone by suggesting that the term "Israeli civilians" should be substituted by "Jewish civilians" etc. It is significant that it did not even propose to modify "Arab civilians" to "Syrian civilians." The bond between the Zone and Israel and the absence of a bond between Syria and the Zone was thus realized even by the Syrian delegation. The only way to equalize Israel's and Syria's status in the Zone was not by suggesting to introduce Syria into the design of the Demilitarized Zone by eliminating Israel.

3) The most important evidence of the clear understanding that Syria has no status in the Demilitarized Zone while Israel does, is to be found in the following paragraph of Mr. Dunche's letter of 26 June 1949 to Mr. Sharett:

"I call attention to the fact that in the Israeli-Trans-Jordan Armistice Agreement, in Article V, paragraph c. and in Article VI paragraph 2, the armistice demarcation lines agreed upon involved changes in the then existing truce lines, and that this was done in both cases without any question being raised as to sovereignty over or the final disposition of the territory involved. It was taken for granted by all concerned that this was a matter for final peace settlement. The same applies to the provision for the El Auja zone in the Egyptian-Israeli Agreement. ^{From} the beginning of these negotiations our greatest

difficulty has been to meet Israel's unqualified demand that Syrian forces be withdrawn from Palestine. We have now, with very great effort, persuaded the Syrians to agree to this. I trust that this will not be undone by legislative demands about broad principles of sovereignty and administration which in any case would be worked out satisfactorily in the practical operation of the scheme.

The above paragraph does not appear, for obvious reasons, in Dr. Buncha's letter sent at the same time to the ^{Syrian} Minister for Foreign Affairs.

4) It is the Chairman, and not the Mixed Armistice Commission on which Syria is represented, that is responsible for ensuring the implementation of Article V, 5. This has been the authoritative interpretation throughout, as reported by General Riley to the Security Council on 21 March 1951 (S/2048, page 1) and reiterated on several occasions in sessions of the Mixed Armistice Commission and in correspondence between the Chairman and Israel. The Security Council Resolution of 18 May 1951 makes specific provision for this exception to the powers of the Armistice Commission (please see my note of 23 October 1953 on "Israel's refusal to debate in the MAC Questions of Civilian Life in the Demilitarized Zone").

Reineidine submits on this question a not very effective, woven web of fraudulent assumptions.

"Custodian"
Theory

The issue is sufficiently important to him to join one distortion to another. He devotes considerable space (pp. 38-39) to allege that the reference in Mr. Eban's speech,

at the 633rd meeting of the Security Council, to the Chairman of the Mixed Armistice Commission as "custodian of private interests of the inhabitants of the Demilitarized Zone (S/P.V. 635, page 35), signals the adoption by Israel of a new theory that the Chairman is "the custodian of the rights of Syria and the Arabs, while not becoming the custodian of the Israelite authorities and the Israelites." According to Zeineddine, "Israel seeks to reform and denature the authority of the United Nations Chief of Staff with a view to substituting it with own authority of its own which he does not possess."

It is to be observed that Mr. Eban made no mention whatsoever of the Chairman's being custodian of Syria's rights. Once again we have caught Zeineddine employing the dubious method of expressing objections to a theory whose distorted description in itself appears to take for granted Syria's unfounded claims.

As for the substance of the reference to the Chairman as custodian of private interests of the inhabitants of the Demilitarized Zone, this description portrays exactly the cardinal responsibility of the Chairman in the Demilitarized Zone.

1.2 -
"Arab area"
"buffer" zone. The big fallacy of presenting Syria as possessing a status within the Demilitarized Zone, leads to smaller though no less ominous distortions. He thus refers to the Demilitarized Zone as an "Arab area" (page 4) and "a buffer" zone, concepts entirely foreign to the Armistice Agreement (page 4B).

I turn now to the basic issues of Arab land, water use, the invocation of the Franco-British treaties, military advantage and the Hule precedent.

ARAB LAND

Zeinoddine repeats the claim voiced by him at the previous meeting that 99% of the land in the Demilitarized Zone is Arab-owned. I made some first comments regarding that claim in my observations on Zeinoddine's preceding speech. I am still awaiting information on this matter from Israel.

His story about burnt land titles (pages 23-25) is simply ludicrous. Had there really existed any additional rightful titles to land, the Syrian representative could have easily had them confirmed in the Safad Land Registry Office through General Bennike. Indeed, we are aware that some of the claims to land-ownership in the Demilitarized Zone, submitted to General Bennike by Syrian representatives, were found to be fictitious after an investigation by United Nations observers. One of these claims to an island in the Jordan river-bed was disposed of in his letter of 20 October. The General reported that the examination of the files of the relevant Land Registry Office had proved that the island does not appear on the Safad land map or land books (dating back to the Mandatory period), and the Arab refugees who claim ownership have produced no titles. This fraudulent claim was imposed upon General Bennike immediately upon the commencement

of the project. The Syrians asserted that the island was Arab-owned and became flooded immediately after the construction of the temporary dam in the Jordan river-bed. Their aim was to persuade General Bennike in the light of this assertion to ban the project on the grounds that it infringed upon Arab land. Although the Chief of Staff, in all his innocence of Syrian methods, ^{showed in} trust, the Syrian claim, he did not consider the alleged flooding of the island as sufficient cause to request the cessation of work. He asked only that working on the dam should stop. (General Bennike's letters to Mr. Eytan and Sgan Aloof Shalev on 8 September 1963). Soon enough it became clear that the island was not flooded, and that, in any case, it is not Arab owned.

General Bennike has already learnt a significant lesson in the case of the Syrian claims regarding Arab-owned-land as well as in the case of the water-mills. In apparent oblivion, the Syrian representative now imposes the same deceptions upon the Security Council.

It is to be noted that the description of Arab-owned land on the map submitted by us, reflects precisely the conclusions of General Bennike's investigation in this matter.

WATER USE

Whatever may be the exact area of land irrigated by Jordan water, the fundamental issue is not the size of the land but the quantity of water required.

It was an United Nations survey in 1951, under the Chairmanship of Colonel Taxis and with the participation of Syrian representatives, that established that the Huteiha farm would require only 1 $\frac{1}{2}$ % of the volume of Jordan water. There would be no problem whatsoever to ensure this amount of water, for instance by constructing a special reservoir which would always remain filled with a sufficient volume of Jordan water.

(I have requested information on the area of land irrigated by Israelis by means of Jordan water as compared with the land irrigated by Syrians.)

With regard to Zaineddine's performance as a defender of the TVA scheme, there is of course the letter received from Messrs. Bashore, Savages, and Wolman that could be made use of in rebuttal. The diverting of water from the Jordan into the B'not Yaakov Canal and its utilisation for generating power would neither diminish the volume of water nor change the direction of its flow. The same amount of water would continue to flow between the Hyle and Lake Tiberias. It would always be tapped, as it can be today, for use in the TVA or any other regional project.

However, it hardly behoves the Syrian representative to resort to such antics as he does when speaking of the regional scheme. It was only a week ago that the Syrian Government joined other members of the Arab League in condemning the TVA scheme and refusing to participate in any joint project with Israel.

It was the Syrian Government that concluded an agreement with the Jordan Government providing for the diversion of the Yarmuk river in a manner depriving Israel settlements of water used by them for the past 25 years. Israel, it is to be recalled, is a riparian state on the Yarmuk; Syria is not a riparian state on the Jordan.

Syria's representative now solemnly declares:

"whenever a water course has international implication we do not proceed to use these waters by unilateral action" (p.24).

Yet, it was Syria who, despite strong protests from Israel, deprived Israel cultivators of large quantities of water flowing in Wadi Duffila from Syria into Israel, north of Lake Hule, and then completely diverted the waters of the stream into Syrian territory.

THE FRANCO-BRITISH AGREEMENTS

Zeineddine invokes this time the agreements of 1922, 1923 and 1924.

The 1922 instrument is in fact "The Final Report on the Demarcation of the Frontier between the Great Lebanon and Syria on the One Side, and Palestine on the Other Side, from the Mediterranean Sea to El Hamme (in the Lower Valley of the Yarmuk) in Pursuance of Articles 1 and 2 of the Convention of Paris of December 23, 1920."

This report was annexed to the "Exchange of Notes Constituting an agreement between the British and French Governments Respecting the Boundary line between Syria and Palestine from the Mediterranean to El Hamme. Paris March 7, 1923"

The 1926 accord is: "Agreement(1) of Good Neighbourly Relations Concluded between the British and French Governments on behalf of the Territories of Palestine, on the one Part, and on behalf of Syria and Great Lebanon, on the Other Part. Signed at Jerusalem, February 8, 1926."

The agreement which he does not mention specifically is the "Franco-British Convention on Certain Points Connected with the Mandates for Syria and the Lebanon, Palestine and Mesopotamia, Signed at Paris, December 23, 1920.

There was no provision in the Syrian Mandate that would have bound independent Syria automatically to treaties concluded on her behalf by France. (Neither was there^a provision of this kind in the Palestine Mandate.)

The position of Israel on this problem is that "it could be said that on the basis of the generally recognized principles of international law, Israel which was a new international personality, was not automatically bound by the treaties to which Palestine had been a party and that its future treaty relations with foreign powers were to be regulated directly between Israel and the foreign powers concerned." (See Israel's reply to a questionnaire on the Law of Treaties from the International Law Commission, A/CN.4/19, 23 March 1950, page 49). This conclusion was applied in practice in bilateral agreements concluded by Israel with various powers, and in Israel's acceding de novo to a number of international conventions regardless of whether previously Palestine was formally

party to them or whether in some other way their provisions had been made applicable to Palestine. Syria, a party to some of these conventions, never raised any problems regarding the approach adopted by Israel.

We are unaware of any official pronouncement on the part of Syria to the effect that treaties concluded by France or by the French Mandatory Administration are automatically binding upon Syria today.

In fact, it has not been made clear by Zaineddine even whether Syria actually considers herself bound by the treaties of 1923 and 1926, and does not confine her call for their implementation to Israel alone.

However, if Syria's position is, in fact, that these treaties are valid, not by virtue of an ad hoc agreement with Israel, or a specific commitment by Israel, but on the basis of the theory that the obligations of the Mandatory Administrations devolve automatically upon Israel and Syria, Syria should be bound equally by other treaties between Palestine and Syria such as the trade agreements and customs conventions.

Syria's relations with Israel in fact and in law show no indication whatsoever that the adoption of such a position could be entertained at all by the Syrian Government. There is another question which Zaineddine is compelled to face if he suggests that the Security Council should seriously consider his invocation of the Franco-British treaties. Syria,

like all other members of the Arab League, continues to maintain that she is in a state of war with Israel. The effect of war on treaties is either to suspend or terminate their validity between the belligerents. Syria has been guilty of illegitimately applying this principle to the extent of refusing co-operation even within the framework of humanitarian and technical conventions to which both she and Israel are parties.

The more one delves into the situation Syria has created and maintained of her ^{own} volition, the more one becomes convinced that Feinoddine's reference to the Franco-British Agreements was another arrogant attempt to mislead the Council.

Indeed, Syria cannot demand the implementation of the treaties by Israel without accepting the consequences of such a demand with regard to herself.

Nor is she entitled to invoke certain parts only of the treaties. The integrity of international treaties is a fundamental principle of treaty law.

Moreover, she is not in a position to assert that the rights of individuals recognized in the above treaties remain in force even when the treaties themselves do not obligate any longer the signatory parties. The agreements in question are international treaties of a distinct political nature and it is obvious that a Party^s, and particularly its nationals, are not entitled to invoke only certain of their provisions against the other party if the treaty as a whole does not remain in force.

The rights of individuals, recognized under the Franco-British treaties, though they may have existed prior to the international agreements are not independent of them. Otherwise it would not have been necessary to contract ~~xxx~~ ~~xxxx~~ specifically on them.

Unless Zeineddine declares that Syria no longer considers herself in a state of war with Israel, that she recognizes as valid all international agreements between Palestine and Syria, or that she desires to give specific and particular recognition to the Franco-British agreements, the references to the agreements in the Security Council can be considered as nothing but defiant abuses of the rationality of members of the Security Council.

In any event, should there be agreement on all sides that these treaties are to be given application, it is evident that the S^hnot Yaakov Canal Project would not in any manner whatsoever be contrary to them. Indeed, one of the basic purposes of these treaties was ~~the desire~~ to prevent that the Jordan River should find itself in any sense within Syria's realm.

MILITARY ADVANTAGE

Zeineddine hardly adds any new arguments on this matter.

His main contention is based on "the control of the course of the river and the possible use of the canal to be made by Israel as a military factor."

It is probably necessary to dispel ~~once~~ and for all ~~any~~ illusions about the value of the Jordan as a military obstacle today.

Zeineddine accepted, in his last speech, our viewpoint that the canal would constitute an additional obstacle (page 6 of my observations.) *He does that in the present speech, or will (p. 44)*

The remaining question is the alleged control by Israel of the Jordan waters as a result of a diversion of a large volume into non-demilitarized territory. It is to be recalled, on this point, that there is a chain of canals on the eastern bank of the Jordan diverting water into Syrian territory. These canals divert an incomparably smaller amount of water than the B'net Yaakov Canal, however the principle is the same. This becomes evident when it is realized that by widening or deepening these canals, the volume of water channeled through them could be considerably increased. The principle of control is thus another convenient fabrication by Syria. The only issue arising from an Israeli company's undertaking what the Syrians are already doing, is ~~the~~ question of the volume of water diverted not the principle of diversion out of the Demilitarized Zone. This, however, is a technical, quantitative problem which must be solved on the basis of the water requirements within the Demilitarized Zone.

It appears also necessary to point out the sophistry in the interchangeable references of Zeineddine to Article II and to Article V. General Bennike made it clear in his letter of 20 October that he does ^{not} base his examination of the issue on Article II, paragraph 1. Zeineddine cannot declare arbitrarily that the provisions of that article apply ^{to} ~~for~~ the Demilitarized Zone only and that such military advantages as "training more troops, building up armaments, establishing industries for increasing the military potential, and the like, are not under discussion."

(p.43) Article II, 1 does not draw such a distinction, and the Syrian representative is hardly entitled to do that simply in order to rebut Mr. Eban's arguments.

Zeineddine is also precluded from extending ^{the} concepts of Article II to interpret the provisions of Article V. Article V is very specific and clear when it states that the Demilitarized Zone has been defined with a view toward separating the armed forces of the two Parties. The Article does not confine itself to the general definition and describes how the separation should be effected in the Demilitarized Zone. Paragraph 5.a of the Article declares "interdiction": "...shall be established as a Demilitarized Zone from which the armed forces of both parties shall be totally excluded, and in which no activities by military or para-military forces shall be permitted."

An attempt to read into this definition any other concepts such as the military value of the zone to the Parties is entirely unfounded.

The only authoritative and binding definition of the Demilitarized character of the zone is that contained in the above paragraph 5 a. It is this paragraph of Article V that determines the particular features of the Demilitarized Zone. Other paragraphs do not refer exclusively to that zone.

Thus it cannot be ignored that the full text of paragraph 2 of Article V is:

"2. In pursuance of the spirit of the Security Council resolution of 18 November 1948, the Armistice demarcation Line and the Demilitarized Zone have been defined with a view toward separating the armed forces of the two Parties in such manner as to minimize the possibility of friction and incident, while providing for the gradual restoration of normal civilian life in the area of the Demilitarized Zone, without prejudice to the ultimate settlement."

Not only the Demilitarized Zone, but the Demarcation Line itself, has been defined with a view to separating the armed forces of the two Parties. Would Zeineddine agree that where there is no Demilitarized Zone along the Demarcation Line, the principle of separation of the armed forces would prevent the addition or the elimination, in non-demilitarized territory, terrain features which may be of military value?

Then, there are also the defensive zones which as far as their military aspects are concerned vary only in the degree of demilitarization from the Demilitarized Zone. Is Syria prepared to recognize Israel's right to veto the construction of canals in these large areas of Syria?

continued
(Hulsh precedent and Syrian consent)

THE HULE PRECEDENT

Zeineddine lists seven "fundamental differences" between the drainage of the Hule and the B'not Yaakov Canal Project (pp. 16-17).

- 1) "First, the Hule drainage of 1951 does not divert the waters nor does it canalize the river into Israel-held territory, away from the Demilitarized ZONE where it separates the two sides. The present project clearly diverts the water" (p. 16).

In addition to what has already been said about the technical similarities between the work in the Demilitarized Zone on the present canal project and the work in the Demilitarized Zone incident to the drainage of Hule, it could in truth be stated that the main result of the diversion of water into non-demilitarized territory, opposed today by the Syrians, that is Israel's control over the flow of the Jordan, obtains in the Hule drainage problem as well. Indeed, the drainage of the Hule swamps is being carried out by means of the construction of a series of canals outside the demilitarized zone. These canals would grant Israel the same kind of control over the Jordan waters as the present canal would. Syria's objections to Israel's control over the Jordan waters resulting from the diversion in the vicinity of the B'not Yaakov Bridge are either consciously or inadvertently devoid of all appreciation of the already existing situation which is that along large sections of its course the Jordan flows already through non-demilitarized Israel territory. The real issue facing the Security Council today is not whether Syria is justified in raising objections to Israel's acquiring control over the Jordan, but whether

in spite of the control Israel is in a position to exercise already, an Israeli company is to be prevented from engaging in a project for making beneficial use of the Jordan waters.

- 2) "Second, the military and other consequences of the Huleh scheme take place almost completely outside the Demilitarized Zone and not inside the Demilitarized Zone; that is, they take place in Israeli-held territory...It is evident, therefore, that the diversion of the Jordan destroys one of the very fundamental objects of the Armistice Agreement, namely, the Demilitarized Zone." (p. 16)

The following statements made by Syria in the Security Council could undoubtedly fit into Zeineddine's pronouncements regarding the Binot Yaakov project. They were made, however, by Faris El-Khoury in 1951 and refer to the Huleh works. *

"I have already explained that in February last the Palestine Land Development Company, under the authority of the Israel Government, started gigantic works in the Demilitarized Zone." (S/P.V. 841, p. 10)

"The project is to be conducted in a demilitarized zone, in a territory not under Israel domination, a territory administered under the provisions of an international convention concluded by Syria and Israel under the auspices of the Security Council. A staff of observers was appointed by the United Nations and charged with the task of controlling the area, where neither Syrian nor Israel sovereignty exists. This shows that neither party could exercise the authority to undertake such large and small enterprises as widening and deepening the bed of the Jordan River between Huleh and Tiberias in the demilitarized zone, using land belonging to other, without having previously obtained the explicit accord of the other signatory

* The complaint submitted by Syria to the Security Council was:

"Violations of the General Armistice Agreement (Starting and continuing operations for draining the Huleh swamps within the demilitarized zone against the wishes of Syria, Arab landowners and United Nations Supervisors, thus violating repeatedly the terms of the Armistice Agreement and defying the recommendation and advice of the United Nations Supervisors.)"

to the Armistice Agreement and the authorization of the United Nations representatives supervising the application of the Agreement and administering the demilitarized zone where the drainage operations were to be conducted, and before having obtained the free consent of the owners of the land. The consent of none of these three elements was obtained." (S/P.V. 541, P. 11)

"...Syria is a signatory to the General Armistice Agreement and cannot permit so great an enterprise to be worked out within the demilitarized zone without its being consulted." (S/P.V. 541, p. 13)

"It is not a matter only of draining the swamps. It is a matter of work being done in the demilitarized zone and, further, the demilitarized zone would be affected by the result of the drainage to such an extent that the interests and position of Syria would be endangered. Had this work been outside the demilitarized zone and in Israel territory, no one would have objected. It is not a matter of seven acres, it is a matter of the reaction on Syrian interests in the demilitarized zone, and Syria could never accept the ignoring by Israel of the fact that it is a co-signatory to the Armistice Agreement.

"The work is being carried on in the demilitarized zone, and the sovereignty of this territory has yet to be decided. Syria is claiming rights within the demilitarized zone, and that work might change the situation. The demilitarized zone was created to act as a buffer zone between Syria and Israel, in order to prevent any collision between the two belligerents during the period of the Armistice Agreement. This buffer zone certainly would be affected by the drainage work. The effect of the buffer zone would be weakened, and a collision might then very easily occur. A conflict would be imminent, and Syria would be obliged to establish great forces there." (S/P.V. 547, p. 28-29)

Some of these expressions are almost identical in substance and form with Zeineddine's arguments. They illustrate clearly that although it was known that the Hule swamps themselves are situated outside the demilitarized zone the main

issue was then, as it is today, the work and its effect within the Zone.

- 3) "Third, the Hule project does not make it possible for Israelites to use the waters of the Jordan in Israel for irrigation and other purposes. Israel might say: Here is the present project and its purposes as presented by a map. We have much questioning regarding the map and will offer information which the Israelite representative has not revealed." (p. 17)

It is, of course, incorrect to say that the Hule project does not envisage the utilization of the waters drained from marshes for irrigation purposes. The canals in construction at present to the north of the demilitarized zone would serve not only for the channelling of the Hule waters down into the Jordan river-bed, but also for irrigation of cultivable land. It is to be recalled that the primary purpose of the B'not Yaakov Canal project itself is first of all the generation of hydraulic power and then only irrigation.

In fact, it is really irrelevant to compare the methods by which the water would be harnessed in the respective projects. We are concerned with the effects of the works and not with their technical operation.

It was made clear in the debate of 1961, as it is being emphasized today, that while the immediate issues are specific projects, the background of the debate is the question of the possession of water sources and the diversion of surplus water into arid zones.

- 4) "Fourth, the Huleh project has hardly any international implications when compared to the present case, the implications of which are exceedingly great. That is the reason which led Mr. Eban to discard so emphatically international obligations involved in the present case." (p. 17)

Syria apparently thought otherwise in 1951 and ever since then. If taken literally, the above statement would signify almost the abandonment of Syria's traditional attitude on Hule. It is remarkable to what lengths Zeineddine is prepared to go to achieve a striking argumentative effect, even if it is to be of short duration only.

- 5) "Fifth, the Huleh project does not affect, to a large degree, the acquired rights of irrigation in the demilitarized zone and in Syrian territory. To the extent that the flood gates of the Huleh project affected irrigation, Israel was compelled to stop work on them, as General Bennike mentioned in his report, and even General Riley decided to stop them. In fact, the trial of these gates amounted to a decrease, by about 70 per cent, of the waters going into the Butaha region in Syrian territory. The Jordan, in the case now before the Council, is the life-line of the demilitarized zone and also of the area in southern Syria which is watered by it. Its diversion to Israel, where no one can really tell what would happen to its waters once they are diverted, creates serious consequences the first of which would be the control of the waters by Israel."

On 17 April 1951, Faris Khouri stated:

"The fourth reason for which Syria cannot remain indifferent to the project of Huleh drainage is that deepening the bed of the Jordan River would render impracticable - or rather impossible - the irrigation of Arab lands now watered by the free flow of the river through lands derived therefrom." (S/P.V. 541, p. 13)

With regard to the checking-gates south of the B'not Yaakov bridge, three important facts have to be noted.

a) The entire problem of the checking-gates must be considered against the background of Israel's consistent policy of avoiding any action that could prejudice the supply of water to the Buteiha Farm. This applied to the Buteiha lands as a whole nearly all of which are situated outside the demilitarized zone. Israel's obligations under the Armistice Agreement refer to that small part of the Farm which lies within the zone.

b) The closing of the Checking-gates would have resulted in the complete drying up of the river-bed during certain periods of time.

c) The owners of the Farm were nevertheless prepared to agree to an arrangement for the controlled operation of the checking-gates on condition that compensation for losses incurred would be paid to them. As continuation of the work was possible even without the operation of these gates (though under more onerous conditions), Israel chose not to operate the gates at all so as to avoid an arrangement that would have given formal recognition to claims of the Buteiha Farm owners to the Jordan water. In any case, the significant fact is that the owners of the Farm were prepared to agree to an undertaking that would have actually prejudiced the irrigation of the Buteiha lands on the understanding that they would receive compensation. The effects of the B'not Yaakov project fall far short of this. It may very well be that Syria's interest

in the above arrangement with Buteiha emanated from her desire to have Israel recognize by an overt act her responsibility for ensuring the supply of water to the Farm. Today, Syria suggests that that responsibility is to be taken for granted.

6) "Sixth, the Huleh project, according to Mr. Eban, has not met with any international challenge since 1951. This is untrue." (page 17).

The only international challenge was that of Syria, who acted in disregard of 18 May 1951 Resolution and the ruling made by the Chief of Staff regarding its implementation.

7) "Lastly, the importance of the two projects is far from being the same. The present issue and its international implications are of far greater importance." (Page 17).

See 4) above.

In the light of the above, it is evident that the alleged differences between the 1951 and 1953 projects are not at all well founded. Indeed, though it is possible to point to certain technical differences, there is no doubt that the issue involved, even the arguments used by the Syrian representative, then, are identical with those of today. The 1951 precedent cannot be eliminated by Syria's change of heart about the importance of the Hule drainage project.

Za'ineddine contends that "Mr. Eban did not explain the so-called precedent of 1951 by the decision of 18 May 1951 itself, as one might have expected, because that decision is not in his favor. He largely avoided that decision because Israel did not implement it, and, in fact flouted it." (p. 13)

Implementation
of 1951
resolution

The first part of the above passage is simply incorrect.

As for the implementation of the 18 May 1951 Resolution, its basic provision concerned the arrangement for the continuation of the Hule drainage work. This was fully implemented in face of strong and persistent Syrian objections, which in fact amounted to the rejection of the authority of the Security Council and that of the Chief of Staff whom the Security Council entrusted with responsibility for giving effect to the Resolution.

With regard to the other provision, Zeineddine would find no support for his claim, that Israel flouted the Resolution, in General Riley's reports. Of course, at least on one point Syria too contributed to the implementation of the Resolution when she decorated for bravery the soldiers and officers that had taken part in the Tel-el-Mutilla aggression.

SYRIAN CONSENT

1) Under the provisions of the Armistice Agreement Syria does not possess any status in territory, whether demilitarized or not, outside its established international boundary.

2) The Security Council decision of 18 May 1951 and its authoritative interpretation and implementation under the Chief of Staff of the UNTSO confirmed this situation.

3) The history of Armistice relations between Israel and Syria is filled with a long sequence of attempts by Syria to modify her situation by creating political pressure and international tension. The salient ones of these attempts were Syrian complaints in November 1949 against the establishment of new Israeli settlements in the Demilitarized Zone and the complaint against the Hule drainage works in 1951. All Syrian efforts to acquire a status like the one she is claiming to-day have been rejected.

4) Zeineddine quotes General Riley's report of 21 March 1951 which said:

"Until such time as a mutual agreement is reached between the Governments of Syria and Israel with respect to the work now being conducted in the demilitarized zone in connexion with the draining of the Lake Huleh marshes, the Palestine Land Development Company or any successor are, in the opinion of the Chief of Staff, not justified in continuing such work." (S/2049, sect. IV, sub-para. 3(B))"

*) It is to be remembered that it was precisely this conclusion that was appealed against by Israel, and that the Chief of Staff himself, in his statements before the Security

Council in 1951 and then the Resolution adopted on 18 May discarded the thought of Israel-Syrian agreement. The Resolution provided for "an agreement through the Chairman of the Mixed Armistice Commission for continuing this project."

5) The absence of any Syrian rights within the Demilitarized Zone has found further confirmation in the practice of Israel's refusals to debate any Syrian complaints regarding civilian life in the Zone. Particularly ever since the Security Council debate in 1951, Syrian complaints concerning life in the Demilitarized Zone submitted to the Chairman and transmitted by him to Israel, have always been returned on the grounds that Syria has no rights to intervene in matters of the Zone. This has become the normal procedure regarding complaints of this kind forthcoming from Syria.

6) It is noteworthy that in the 1951 debate the Syrian representative declared at one point that "... the Syrian Government has always claimed the part where the demilitarized zone now exists to be Syrian territory because this territory was under Syrian occupation up until the time the Armistice Agreement came into force" (S/P.V. 541, page 3). He later qualified this statement by declaring: "The territory comprising the demilitarized zone had been for the most part under Syrian occupation, as I have already stated. When a final peace agreement has been concluded, Syria will certainly insist that this territory should be returned to its control." (S/P.V. 541, p.13 and S/P.V. 545, p. 20). Syria did not put forward these claims this time. It

is quite evident, however, that she continues in the tradition of invoking rights in the Demilitarized Zone which have no basis in law or in fact.

Until to-day Syria has remained extraneous to the Demilitarized Zone. In view of the fact that this has been the accepted interpretation of the agreement in the past, the fundamental question of whether Syria does or does not have a special status in the Demilitarized Zone cannot be subject to reinterpretation by resort to the routine procedure of Article VII. It is clear that any modification of this position would require an agreed amendment of the General Armistice Agreement and cannot be achieved in any other manner.