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LEAGUE OF NATIONS

PERMANENT MANDATES COMMISSION

MINUTES

of the

TWENTY-FIRST SESSION

Held at Geneva from October 26th to November 13th, 1931,

including the

REPORT OF THE COMMISSION TO THE COUNCIL

on the Ordinary Work of the Session,

the Comments by the Accredited Representatives of the Mandatory Powers,

and the

SPECIAL REPORT OF THE COMMISSION TO THE COUNCIL

on the Proposal of the British Government

with regard to

THE EMANCIPATION OF IRAQ.



Series of League of Nations Publications

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1931. VI. A. 3.

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Referring to the public demonstration which took place in Baghdad in March last (page II) as a protest against "the hated political situation", she thought that schoolboys were rather young to take part in such manifestations, as they had apparently done. Had they been punished?

Sir Francis HUMPHRYS was unable to say whether the commercial school had actually been started, though he knew it had been the intention to do so. The reason for closing the Agricultural College was that the kind of employment which educated young Iraqis hoped for was not obtainable as a result of their studies at that school. They liked what they called a "political" appointment and thought that manual labour was an undignified pursuit for those who had enjoyed a modern education. The school had accordingly been closed down until a different spirit could be introduced.

The public demonstration at Baghdad had been a very harmless affair and very good-humoured throughout. The Iraqi Government had, however, taken steps, through the teachers, to prevent schoolboys from taking part in such manifestations.

Lord LUGARD suggested that the present state of affairs might be largely due to the uncensored Press. He enquired whether Press articles were much read by and had much effect on schoolboys.

Sir Francis HUMPHRYS replied that they had a great influence on young minds, and said that a new Press Law had been enacted, providing for the forfeit of the legal deposit in the event of any article published being prejudicial to public security. No provision was made, however, for censorship.

THE BAHAI CASE.

M. ORTS wished to know whether the question raised by the Bahais' petition had at last been settled. The Mandates Commission had examined this petition in November 1928,¹ and, on the basis of its report, the Council of the League² had, in March 1929, invited the British Government to remedy the wrong done to those people.

At the twentieth session of the Mandates Commission³ the accredited representative had said that no steps had yet been taken. As the accredited representative was now perhaps before the Commission for the last time, M. Orts wished to ask him whether effect had been given to the Council's resolution. It might be argued that, as so much time had elapsed, the affair was of no further interest. It was, however, characteristic of the Moslem spirit of intolerance and the fears that spirit caused the Iraqi Government. Those fears seemed to be stronger than the Government's desire, particularly at the present time, to avoid any appearance of disregarding the opinion of the League Council.

Sir Francis HUMPHRYS repeated the explanations which he had given at the June session. There was, unhappily, no doubt in the mind of His Majesty's Government that a miscarriage of justice had taken place, and he explained at length the various difficulties, legal and otherwise, which stood in the way of a revised settlement. The Iraqi Government had, however, accepted in principle a solution of the problem which he regarded as satisfactory, and was determined to carry it out.

If the case had been cognisable by the Permanent Court of International Justice, it would no doubt have been settled by now, and he reminded the Commission that occasional miscarriages of justice were not peculiar to Iraq. He much regretted the delay which had occurred and hoped the matter would be disposed of before next summer.

M. ORTS fully appreciated the difficulties of the situation. It should not be forgotten, however, that the Iraqi courts had created that situation by their partiality and the Iraqi Government by its weakness. He noted that no progress had been made in the matter. Religious passion was at the bottom of this injustice and it was clear that the delays in righting the wrong were due to the same cause; the Iraqi Government was not strong enough to make a majority respect the right of a minority. That was a point which should not be forgotten.

M. Orts thought that the Commission would have to report to the Council that its 1929 resolution had remained without effect.

M. RAPPARD concluded from the explanations given that the case would have been settled if it had been subject to the jurisdiction of a supreme court. This would seem to denote, therefore, that there was merely a legal difficulty. He asked whether it would have been possible to overcome the legal difficulty if there had been no question of any religious fanaticism.

Sir Francis HUMPHRYS replied that the legal difficulty was that the highest court in the country had awarded the property to the people who were now in possession, and there was no appeal against that judgment. Up to now, it had not been found possible to settle the matter by negotiation out of court.

M. ORTS observed that the effect of the denial of justice had been to deprive the lawful owners — namely, the Bahais — of their property. The solution of expropriating that property could hardly be accepted as a reparation for the denial of justice. The present holders, who

¹ See Minutes of the Fourteenth Session of the Permanent Mandates Commission (document C.568.M.179.1928.VI), pages 189 and 190, 221 and 222, 261 to 264, 276.

² See *Official Journal*, April 1929, Minutes of the Fifty-fourth Session of the Council, page 506.

³ See Minutes of the Twentieth Session of the Permanent Mandates Commission (document C.422.M.176.1931.VI), pages 127 to 129.

had no right to the property, would receive the compensation for expropriation, whereas the despoiled Bahais would obtain no other satisfaction than being, like every other inhabitant of Baghdad, allowed to enter the public garden and apply to the dispensary. At the very least, a decree might have been issued (as had already been suggested) that no change should ever be made in the arrangement of the places to which they attached a sentimental value.

Lord LUGARD asked whether it would be possible for the Iraqi Government to make restitution by an Act of Parliament without reversing the judgment.

Sir Francis HUMPHRYS replied that a majority would not be obtained in Parliament.

M. RAPPARD asked whether the mandatory Power had had any hope of redressing the legal judgment when it enquired into the matter. Had there been any subsequent occurrence to destroy that hope ?

Sir Francis HUMPHRYS said there must have been, he thought, over a hundred consultations with the King, the Prime Minister, legal advisers, etc., with a view to finding a solution, but without success. He referred to his remark at the previous session¹ that this was the only case in eleven years in which the justice of a decision by the Iraqi courts had been questioned by His Majesty's Government. He would do his best to see that the proposed solution was put into effect next summer.

RELATIONS BETWEEN THE SHIAHS AND THE SUNNIS.

M. PALACIOS noted that the King and Prime Minister were Sunnis. He asked whether the Shiahs had free access to Parliament and what was the political effect of the antagonism between the two sects. The Commission had dealt with the question at previous sessions.

Sir Francis HUMPHRYS replied that the Cabinet always included one Shiah, and that there were several Shiah members of Parliament. In Iraq, the two sects were fairly evenly divided.

TRAFFIC IN DRUGS AND TRAFFIC IN WOMEN AND CHILDREN.

Lord LUGARD noted that the report contained no information on drugs and on the traffic in women and children. Moreover, in the detailed list of offences tried by the courts (page 45 of the report), no persons had been convicted for offences connected with these subjects.

Sir Francis HUMPHRYS said he had given a full report on drugs to Count de Penha Garcia at the latter's request, and a special report on women and children had been sent to the League.

Count DE PENHA GARCIA thanked the accredited representative for the replies given to questions which he had put at the previous session. He noted that the system for controlling the traffic in drugs was based on a State monopoly, and that it had not given all the results expected. The decrease that year in the consumption of drugs had not even been anticipated by the Government, which had purchased large stocks. It was due either to the crisis or to an increase in illicit traffic. The report showed that, during the year, considerable smuggling had been carried on and that the quantity of opium seized represented one-third of the Government's imports. This was a very high proportion.

The Iraqi Government had suggested that, if the export duties in Persia were decreased, this would reduce the price of opium in the legal trade and would remove one of the principal incentives to smuggling. Count de Penha Garcia thought, on the contrary, that the result would be to encourage consumption. He thought that consumption could be restricted by means of direct control, not only by limiting retailers, but by preparing a list of authorised consumers who would also be subject to control. A monopoly often became a source of income, the size of which caused the general principle of the obligation to reduce and do away with the use of opium to be forgotten. That was not the case in Iraq; the receipts were fairly small, but the question should be borne in mind.

SPIRITUAL COUNCILS.

M. ORTS asked the accredited representative to be good enough to explain the reference he had made to the proposed establishment of a spiritual council of the Yazidis similar to those established for other non-Moslem communities. He asked what were the powers of such councils.

Sir Francis HUMPHRYS replied that, in accordance with Articles 75, 78, 79, 80 and 112 of the Constitution, communal laws had been passed in respect of the Jewish and Armenian communities. These laws had been drawn up in consultation with the lay and spiritual advisers of the parties and had given general satisfaction. It was proposed to enact similar laws for

¹ See Minutes of the Twentieth Session of the Permanent Mandates Commission (document C.422.M.176.1931.VI), page 129.

FIFTEENTH MEETING.

Held on Wednesday, November 4th, 1931, at 10.30 a.m.

Iraq: Petition, dated May 16th, 1931, from Mme. Assya Taufiq (document C.P.M.1250): Appointment of a Rapporteur.

The CHAIRMAN requested M. Rappard to be good enough to report on this petition.

M. RAPPARD agreed.

Question of the Emancipation of Iraq (continuation).

Sir Francis Humphrys and Mr. Hall came to the table of the Commission.

GUARANTEES AS REGARDS FREEDOM OF CONSCIENCE, ETC.

The CHAIRMAN asked whether the accredited representative thought that freedom of conscience and the other points defined in paragraph (d) of Part II of the conclusions of the Commission would be adequately safeguarded by a declaration such as the Albanian Declaration.

M. PALACIOS stated that the guarantee of religious liberty had passed from the Treaty concluded by the mandatory Power with Iraq into the constitutional Charter in force in the country. This Charter should not be revised in a sense contrary to this essential principle of all civilisation. The present case was not that of minorities, but of individuals, whether nationals or foreigners. On this point, there should be a very definite guarantee. M. Palacios thought this condition would be fulfilled by a declaration similar to that contained in the second paragraph of Article 2 of the Albanian Declaration, provided, naturally, that the undertaking which Iraq accepted *vis-à-vis* the League of Nations had an international character and was always interpreted in accordance with Article 1 of that Declaration. In other words, provisions of this kind should be recognised as fundamental laws in Iraq and should not be able to be overridden by any law, regulation or official act either at present or in the future. It should be expressly provided that the missions should be entitled to carry on their customary activity, whatever the religion or nationality to which they belonged.

M. RAPPARD asked whether there had ever been any violation of freedom of conscience in Iraq, apart from the Bahai incident which was apparently of a different nature.

Sir Francis HUMPHRYS said that he had never heard of any instance of a denial of freedom of conscience in religious matters and that, speaking personally, he had no cause for apprehension that there would be any such denial in future.

M. RAPPARD enquired whether, that being so, the accredited representative would have any suggestion to offer as to the best political treatment of the question.

Sir Francis HUMPHRYS replied that, personally, he thought that it would be very valuable to stereotype the formula relating to freedom of conscience as part of the law of the land. It would have a great moral effect.

The accredited representative informed the Commission that, on his northern tours, he had said that he felt certain that the League, before admitting Iraq, would demand guarantees such as had been demanded from the Balkan States. Those persons with whom he had spoken had been very much relieved and had declared that, if something on the lines of the Balkan guarantees could be incorporated in the law, they would feel much happier about the position.

M. RAPPARD urged that it was essential to avoid the danger of establishing prohibitions which might invite violation. The declaration must be couched in judicious terms.

M. RUPPEL observed that the only point not covered by the Albanian text was the principle of liberty of missions, which was not provided for in Article 5. He thought that the text of the Albanian Declaration should be supplemented to protect foreign missions.

M. VAN REES drew attention to the existing provisions applicable to religious questions and asked whether, in the accredited representative's view, they were adequate. Articles 3 and 12 of the Treaty of Alliance of 1922, guaranteeing freedom in religious matters at present, would both cease to have effect on the termination of the mandate. Article 3 of the Treaty had been re-embodied in Article 13 of the Constitution, but there was no provision in the latter

TERRITORY UNDER A MANDATE

C.P.M.1267 (1).

Iraq.

Although in compliance with the Council's resolution dated September 4th, 1931, the Commission during its present session devoted its attention mainly to examining the proposed emancipation of Iraq, it also reviewed the report submitted by the mandatory Power on the administration of this territory during the year 1930. In the Commission's opinion, this report calls for the following observations :

1. *Frontiers.*

The Commission noted a declaration by the accredited representative to the effect that the British and French Governments have agreed to request the Council to determine the frontier between Iraq and Syria, and with this end in view to send a Commission to investigate the meaning of the line mentioned in the Franco-British Convention of 1920. The interested parties propose to ask the Council to decide how it would be desirable to modify the line traced in this Convention in the interests of both territories, due account being taken of the administrative, geographical and tribal considerations involved (page 93).

2. *Administration of Justice.*

The Commission learned with regret that the mandatory Power had not yet succeeded in obtaining redress for the Bahai community in respect of the miscarriage of justice of which it was the victim and to which allusion was made in the Commission's two previous reports to the Council on Iraq (pages 97-98).

TERRITORIES UNDER B MANDATE

C.P.M.1244 (1).

Tanganyika.

GENERAL OBSERVATIONS.

1. *Economic Crisis.*

The Commission regretted to learn from the accredited representative's statement how seriously the world economic crisis had affected the economic, financial and social life of the territory. It trusts that the necessary retrenchments may be effected without any serious diminution in the educational, medical and the other public services which affect the native population and, in particular, that the system of native administration will not be compromised by the effects of the crisis (pages 27-28).

2. *Foodshortage in the Province of Bukoba in 1929.*

The Commission thanks the mandatory Power for its detailed reply to the question asked by the Commission in 1930 with regard to the famine in the province of Bukoba in 1929. It trusts that the steps taken by the Administration will prevent the recurrence of such calamities (pages 26, 30).

3. *Native Policy.*

The Commission is glad to learn that effective steps are being taken to cope with the congestion of the native population in the Arusha-Meru district (page 39).

SPECIAL OBSERVATIONS.

1. *General Administration.*

The Commission has read with keen interest the annual reports of the Provincial Commissioners of the mandated territory on native administration for the year 1930. It would be glad if these reports could be communicated to it regularly in future (page 29).

The Commission welcomes the statement of the accredited representative that the interesting experiment in native administration recently inaugurated is being continued (page 28).

2. *Agricultural Credit.*

The accredited representative informed the Commission that an expert on co-operative banks has been instructed to examine the question of agricultural credit in Tanganyika. It trusts that the mandatory Power will inform it next year of the steps that have by then been taken in consequence of this examination (page 31).

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