

N° 893.

GRANDE-BRETAGNE
ET IRAK

Accord judiciaire conclu en exécution de l'article IX du Traité entre la Grande-Bretagne et l'Irak, signé à Bagdad, le 25 mars 1924.

GREAT BRITAIN
AND 'IRAQ

Judicial Agreement made under Article IX of the Anglo-'Iraq Treaty, signed at Baghdad, March 25, 1924.

No. 893. — JUDICIAL AGREEMENT¹ MADE UNDER ARTICLE IX OF THE ANGLO-'IRAQ TREATY², SIGNED AT BAGHDAD, MARCH 25, 1924.

English and Arabic official texts communicated by His Britannic Majesty's Foreign Office. The registration of this Agreement took place June 15, 1925.

WE, the undersigned Plenipotentiaries of HIS BRITANNIC MAJESTY and of HIS MAJESTY the KING OF 'IRAQ respectively, having been duly authorised, met together this 25th day of March, 1924, corresponding to the 19th day of Sha'ban, 1342, in order to sign the following Agreement subsidiary to Article IX of the Treaty of Alliance concluded between Their Majesties aforesaid on the 10th day of October, 1922, corresponding to the 19th day of Sa'far, 1341, Hijrah, subject to ratification.

THE AGREEMENT.

Whereas a Treaty of Alliance between His Britannic Majesty and His Majesty the King of 'Iraq was signed at Baghdad on the 10th of October, 1922, corresponding with the 19th day of Sa'far, 1341, Hijrah, and a Protocol to the same Treaty was signed at Baghdad on the 30th day of April, 1923, corresponding with the 14th day of Ramazan, 1341, Hijrah; and

Whereas by Article IX of the said Treaty, His Majesty the King of 'Iraq undertakes that he will accept and give effect to such reasonable provisions as His Britannic Majesty may consider necessary in judicial matters to safeguard the interests of foreigners in consequence of the non-application of the immunities and privileges enjoyed by them under capitulation or usage, and that such provisions shall be embodied in a separate agreement which shall be communicated to the Council of the League of Nations.

Now therefore it is agreed as follows :

Article I.

The expression " foreigners " means the nationals of any European or American State which formerly benefited by Capitulations in Turkey and did not renounce the same by an agreement signed before the 24th July, 1923, and of any Asiatic State which is now permanently represented on the Council of the League of Nations, and includes corporations constituted under the laws of such States and religious or charitable bodies or institutions wholly or mainly composed of nationals of such States.

Nothing in this article shall prevent the conclusion by His Majesty the King of 'Iraq in agreement with His Britannic Majesty of a special convention with any State providing for the extension of the benefits of this Agreement to nationals and persons enjoying the protection of that State or for the non-application of this Agreement to nationals of that State.

¹ The exchange of ratifications took place at Baghdad, December 19, 1924.

² Page 13 of this Volume.

Article II.

His Majesty the King of 'Iraq undertakes to employ British legal experts in the Courts and to grant them judicial powers under the laws of 'Iraq and that the procedure now observed in the Courts in regard to the investigation of offences and the trial of cases and other matters in which foreigners are concerned shall continue and be put into force by law, that is to say :

- (a) That foreigners accused of an offence (other than a contravention) which is within the jurisdiction of a Magistrate may claim to be tried by a British Magistrate.
- (b) That foreigners accused of an offence which is beyond the jurisdiction of a Magistrate may claim that the interrogation during the preliminary investigation shall be undertaken and that the orders as to their release on bail and as to their committal for trial shall be made by a British Magistrate.
- (c) That foreigners committed for trial may claim that their trial shall be held before a Court which includes at least one British Judge, who shall preside.
- (d) That in civil actions over seven hundred and fifty rupees in value, foreigners who are parties to the cause may claim that the final judgment in a Court of First Instance shall be given, and that appeals or applications for revisions shall be heard by a Court presided over by a British Judge and composed so as to include one British Judge in a Court of three or less than three, two British Judges in a Court of four or five, and three British Judges in a Court of more than five.
- (e) That in criminal cases foreigners may claim that their appeal or application for revision shall be heard by a Court presided over by a British Judge and composed as prescribed by the preceding paragraph or, if all the parties joining in such appeal or application are foreigners and agree to that course, by a British Judge sitting alone.
- (f) A foreigner who is a party to the proceedings and has not sufficient knowledge of Arabic to understand them may claim that all proceedings shall be translated in English and the Magistrate shall so order if he considers the claim to be well grounded.
- (g) That in the towns of Baghdad and Basrah and their environs and in all other places where a British Judge or Magistrate having jurisdiction for that purpose is available the house of a foreigner shall not be entered by any judicial or administrative authority except on a warrant issued by a British Judge or Magistrate.

Where no British Judge or Magistrate is available as above and in all cases where the police are by law allowed to enter houses without search warrant, the house of a foreigner shall not be entered without a report of such entry being immediately made to the nearest British Judge or Magistrate.

Article III.

His Majesty the King of 'Iraq undertakes that every law affecting the jurisdiction, constitution or procedure of Courts or the appointment and discharge of Judges shall, before being presented to the legislature, be submitted in draft to the High Commissioner for his views and advice on such of its provisions as concern the interests of foreigners.

Article IV.

In matters relating to the personal status of foreigners or in other matters of a civil and commercial nature in which it is customary by international usage to apply the law of another country, such law shall be applied in manner to be prescribed by law. Without prejudice to the provisions of any law relating to the jurisdiction of religious courts, or to such powers of Consuls in regard to the administration of estates of their nationals as may be recognised under agreements concluded by the Government of 'Iraq, cases relating to the personal status of foreigners will be dealt with

by the Civil Court, subject to the conditions of this Agreement. In questions of marriage, divorce, maintenance, dowry, guardianship of infants and succession of movable property, the President of the Court hearing the case, or, in case of appeal or revision, the President of the Court of Appeal and Revision, hearing the case may invite the Consul or representative of the Consulate of the foreigner concerned to sit as an expert for the purpose of advising upon the personal law concerned.

Article V.

His Majesty the King of 'Iraq agrees to submit beforehand to the High Commissioner for his concurrence the appointment of all British Presidents and members of Courts of Appeal and Revision as well as the termination of the appointment of any British Judge or Magistrate.

Article VI.

The provisions of this Agreement shall remain in force for the period of the Treaty and shall cease to have effect after the expiration of that period.

In witness of which the respective Plenipotentiaries have affixed their signatures thereto. Done at Baghdad, in duplicate, this twenty-fifth day of March, one thousand nine hundred and twenty-four of the Christian Era, corresponding with the nineteenth day of Sha'ban one thousand three hundred and forty-two, Hijrah.

H. DOBBS,

*His Britannic Majesty's High
Commissioner for 'Iraq.*

JA'FAR AL 'ASKARI,

Prime Minister of the 'Iraq Government.