



Treaty Series No. 13 (1936)

Agreement

between the Governments of the United Kingdom, Canada,
the Commonwealth of Australia, New Zealand, the
Union of South Africa and of India and
the Government of Iraq
regarding

British War Cemeteries, &c., in Iraq

[With Exchange of Notes]

Bagdad, March 15, 1935

*Presented by the Secretary of State for Foreign Affairs
to Parliament by Command of His Majesty*

LONDON

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AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED KINGDOM, CANADA, THE COMMONWEALTH OF AUSTRALIA, NEW ZEALAND, THE UNION OF SOUTH AFRICA, AND OF INDIA AND THE GOVERNMENT OF IRAQ REGARDING BRITISH WAR CEMETERIES, &C., IN IRAQ (WITH EXCHANGE OF NOTES).

Bagdad, March 15, 1935.

THE Governments of the United Kingdom of Great Britain and Northern Ireland, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa and India, on the one hand, and the Government of Iraq, on the other hand, being desirous of placing the permanence and care of the graves of British soldiers who fell in the late War and were interred in Iraqi territory, upon a firm and established basis, have agreed as follows:—

ARTICLE 1.

In this agreement the expression "the Commission" means the Imperial War Graves Commission incorporated by Royal Charter granted by His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, on the twenty-first day of May, 1917.

The expression "war cemeteries, graves and memorials" means the cemeteries and graves in Iraqi territory containing the bodies of soldiers of the British Empire fallen in the late War, and the memorials in the said territory commemorating such soldiers, which are the subject of this agreement.

ARTICLE 2.

The Government of Iraq confirm and continue the recognition accorded to the Commission, as communicated to His Majesty's High Commissioner by note of the Prime Minister of Iraq dated the 11th/12th March, 1928, as the sole British authority charged with the duty of perpetually caring for the war cemeteries, graves and memorials. For the purpose of carrying out this duty the Government of Iraq recognise the right of the Commission to act in Iraq as an association possessing the civil rights of a juristic person.

ARTICLE 3.

The Government of Iraq agree that the Commission shall be represented in Iraq by a committee, named and composed as stated below, which shall be competent to perform in the name of the Commission, and within the limits of the powers which the Commission shall from time to time delegate to it, all civil acts necessary to enable it to fulfil its object.

The said Committee shall be called "The Iraq Committee of the Imperial War Graves Commission," and shall be composed of the chief representative for the time being in Iraq of His Majesty The King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India (who shall be Chairman), and such six other persons as he may from time to time nominate in agreement with the Commission as members of the Committee.

The said Committee may, if considered necessary or desirable, be registered in Iraq as an association possessing the civil rights of a juristic person under the title above mentioned.

ARTICLE 4.

The Government of Iraq agree that the lands now occupied by the war cemeteries, graves and memorials shall become the property in perpetuity of the Commission, and for that purpose—

- (a) such lands which are now registered otherwise than in the name of the Commission shall forthwith be registered in the name of the Commission;
- (b) such lands which are the property of the Government of Iraq shall be registered in the name of the Commission;
- (c) such lands which are the property of private owners shall, in default of acquisition by private agreement, be expropriated by the Government of Iraq at the request and cost of the Commission, and shall be registered in the name of the Commission;
- (d) any portion of the lands referred to in the preceding subparagraphs which is miri shall be made mulk;
- (e) in confirmation of the decision of the Council of Ministers at their meeting held on the 2nd February, 1924, approved by His Majesty the King of Iraq, no fees or stamp duties shall be charged in respect of any registration under this Article.

ARTICLE 5.

The lands occupied by the war cemeteries, graves and memorials shall not, while in the ownership of the Commission for the objects contemplated in this agreement, be subject to any State or local taxation.

ARTICLE 6.

The Government of Iraq agree that the Commission shall—

- (a) exercise full control over the war cemeteries, graves and memorials, including the enclosing, laying out, construction and horticultural treatment of the same;
- (b) be at liberty, should they think fit, to prepare and submit for the approval of the competent Ministers of State, rules governing visits to, and the behaviour of the public in, or in relation to, the war cemeteries, graves and memorials; and
- (c) be afforded by the Government of Iraq (but without expense to that Government) all possible facilities for obtaining a sufficient water supply for the proper irrigation and horticultural upkeep of the war cemeteries, graves and memorials.

ARTICLE 7.

In confirmation of the decision of the Council of Ministers at their meeting held on the 2nd February, 1924, approved by His Majesty the King of Iraq, all stone, marble or other building material, tools, appliances and stores required by the Commission in the construction, repair, replacement or upkeep of the war cemeteries, graves and memorials shall, on production of certificates from the Commission's duly authorised representative, be admitted into Iraq free of all customs duties or dues.

ARTICLE 8.

The Commission shall appoint the custodians to whom shall be entrusted the care and maintenance of the war cemeteries, graves and memorials, and such custodians may be persons of British nationality.

The Government of Iraq shall recognise such custodians and shall give them every assistance necessary for the safeguard and protection of the war cemeteries, graves and memorials.

ARTICLE 9.

With regard to the Memorial to the "Missing" at Basra, the Government of Iraq undertake that they will not transfer any land between the boundary of the site of the said Memorial and the river, nor transfer any shati land which may appear, except by lease for agricultural purposes.

ARTICLE 10.

This agreement shall come into force on the day of publication in the *Official Gazette* of the necessary enabling law.⁽¹⁾

(1) The agreement came into force on April 25, 1936.

In witness whereof the undersigned duly authorised thereto have signed the present agreement and affixed thereto their seals.

Done at Bagdad in duplicate on the 15th day of March, 1935.

For the Government of the United
Kingdom of Great Britain and
Northern Ireland :

(L.S.) F. H. HUMPHRYS.

For the Government of Canada :

(L.S.) F. H. HUMPHRYS.

For the Government of the Common-
wealth of Australia :

(L.S.) F. H. HUMPHRYS.

For the Government of New Zealand :

(L.S.) F. H. HUMPHRYS.

For the Government of the Union of
South Africa :

(L.S.) F. H. HUMPHRYS.

For the Government of India :

(L.S.) F. H. HUMPHRYS.

For the Government of Iraq :

(L.S.) NOURY SAID.

Exchange of Notes.

No. 1.

*Sir F. Humphrys to Nuri Pasha.*Your Excellency, *British Embassy, Bagdad, March 15, 1935.*

FOR the purposes of the agreement signed this day between the Iraqi Government of the one part, and His Majesty's Governments in the United Kingdom, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa and the Government of India of the other, relative to the British War Cemeteries, Graves and Memorials in Iraqi Territory, it is understood that the registration of the immovable properties in question in the joint names of His Majesty's Governments concerned is to be regarded as equivalent to registration in the name of the Imperial War Graves Commission, and that the registrations already effected in the name of the Secretary of the Imperial War Graves Commission will be amended accordingly.

2. It is further understood that His Majesty's Governments on whose behalf the agreement has been signed will not take advantage of the final paragraph of Article 3 without receiving the specific consent of the Iraqi Government.

I avail, &c.

F. H. HUMPHRYS.

No. 2.

*Nuri Pasha to Sir F. Humphrys.*Your Excellency, *Ministry for Foreign Affairs,
Bagdad, Iraq, March 15, 1935.*

FOR the purposes of the agreement signed this day between the Iraqi Government of the one part, and His Majesty's Governments in the United Kingdom, Canada, the Commonwealth of Australia, New Zealand, the Union of South Africa and the Government of India of the other, relative to the British War Cemeteries, Graves and Memorials in Iraqi Territory, it is understood that the registration of the immovable properties in question in the joint names of His Majesty's Governments concerned is to be regarded as equivalent to registration in the name of the Imperial War Graves Commission, and that the registrations already effected in the name of the

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Secretary of the Imperial War Graves Commission will be amended accordingly.

2. It is further understood that His Majesty's Governments on whose behalf the agreement has been signed will not take advantage of the final paragraph of Article 3 without receiving the specific consent of the Iraqi Government.

I avail, &c.

NOURY SAID.