



Treaty Series No. 33 (1931)

# Judicial Agreement between His Majesty, in respect of the United Kingdom, and the King of 'Iraq

Baghdad, 4th March, 1931

[*Ratifications exchanged at Baghdad, May 29 1931*]

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

LONDON:

PRINTED AND PUBLISHED BY HIS MAJESTY'S STATIONERY OFFICE

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:  
Astrak House, Kingsway, London, W.C.2; 120, George Street, Edinburgh;  
York Street, Manchester; 1, St. Andrew's Crescent, Cardiff;  
15, Donegall Square West, Belfast;  
or through any Bookseller.

1931

Price 1d. Net

Cmd. 3933

# Judicial Agreement between His Majesty, in respect of the United Kingdom, and the King of 'Iraq.

Baghdad, March 4, 1931.

[Ratifications exchanged at Baghdad, May 29, 1931.]

His Majesty the King of Great Britain, Ireland and the British  
Dominions beyond the Seas, Emperor of India,  
And His Majesty the King of 'Iraq;

WHEREAS a Treaty of Alliance between His Britannic Majesty  
and His Majesty the King of 'Iraq was signed at Baghdad on the  
10th day of October, 1922,<sup>(1)</sup> of the Christian era, corresponding to  
the 19th day of Safar, 1341, Hijrah; and

WHEREAS by Article 9 of the said Treaty His Majesty the King  
of 'Iraq undertook that he would accept and give effect to such  
reasonable provisions as His Britannic Majesty might 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

WHEREAS an Agreement to this end, hereinafter called the  
Judicial Agreement, was signed at Baghdad on the 25th day of  
March, 1924,<sup>(2)</sup> of the Christian era, corresponding to the 19th day  
of Sha'ban, 1342, Hijrah; and

WHEREAS it is recognized that the provisions of the said Judicial  
Agreement are incompatible with the standard of justice now  
administered in the Courts of 'Iraq and that special measures to  
safeguard the interests of foreigners are no longer required:

Have agreed to conclude a new Agreement on terms of equality  
and have appointed as their plenipotentiaries:

His Majesty the King of Great Britain, Ireland and the British  
Dominions beyond the Seas, Emperor of India,

For Great Britain and Northern Ireland:

Lieutenant-Colonel Sir FRANCIS HENRY HUMPHRYS,  
Knight Grand Cross of the Royal Victorian Order, Knight  
Commander of the Most Distinguished Order of Saint  
Michael and Saint George, Knight Commander of the Most  
Excellent Order of the British Empire, Companion of the  
Most Eminent Order of the Indian Empire, High  
Commissioner of His Britannic Majesty in 'Iraq; and

(1) "Treaty Series No. 17 (1925)"—Cmd. 2370.

(2) Ditto, p. 34.

His Majesty the King of 'Iraq :

General NURI PASHA AL SA'ID, Order of the Nadha, Second Class, Order of the Istiqlal, Second Class, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, Prime Minister of the 'Iraq Government; who having communicated their full powers, found in due form, have agreed as follows :—

*Article 1.*

The special judicial régime established in favour of certain foreigners under the Judicial Agreement shall be abolished forthwith and a uniform system of justice shall be applicable to all 'Iraqis and foreigners alike.

*Article 2.*

In order to facilitate the establishment and working of the new system it is agreed that it will be necessary to continue to employ a limited number of British legal experts in the Ministry of Justice and in the Courts of 'Iraq to be selected by His Majesty the King of 'Iraq with the concurrence of His Britannic Majesty and that these experts shall be granted judicial powers under the laws of 'Iraq. His Majesty the King of 'Iraq accordingly undertakes to employ, upon terms not less favourable than those set out in the British Officials Agreement of the 25th March, 1924,<sup>(3)</sup> and on contracts for a period of 10 years from the date of the entry into force of this Agreement, nine British legal experts. His Majesty further undertakes that the following appointments shall normally be filled by British officers from the aforesaid legal experts :—

- (1) A British Judicial Adviser.
- (2) A British President of the Court of Appeal and Cassation.
- (3) British Presidents of the Courts of First Instance and Sessions at the following places—Baghdad, Basrah, Mosul, and such other places as may hereafter be agreed upon.

*Article 3.*

His Majesty the King of 'Iraq undertakes to provide :—

- (a) that the Consular Representative of a foreign State in 'Iraq shall at all reasonable times subject to usual police and prison regulations have free communication with and access to any national of that State who may be undergoing detention in 'Iraq :
- (b) that any person who being a party to criminal or civil proceedings is present at an enquiry, investigation or trial, and has not sufficient knowledge of the official language used to understand them shall have the right to claim that all such proceedings shall be translated where possible into his native tongue and where this is not possible into English or French :

<sup>(3)</sup> " Treaty Series No. 17 (1925) "—Cmd. 2370, p. 9.

889

- (c) that no house or other premises shall be entered save on a warrant signed by a Magistrate except where the Police are in the act of pursuing a person caught *in flagrante delicto* or whom they are authorized to arrest.

Article 4.

In matters relating to the personal status of foreigners or in other matters of a civil and commercial nature in which it is customary to apply the law of another country, the application of such law shall be in accordance with the rules of private international 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 recognized under agreements concluded by the Government of Iraq, cases relating to the personal status of foreigners will be dealt with by the Civil Court. 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 the case of appeal or revision, the President of the Court of Appeal and Cassation hearing the case may invite the Consul or representative of the Consulate of the foreigner concerned, to attend as an expert for the purpose of advising upon the personal law concerned.

Article 5.

The present Agreement shall replace the Judicial Agreement of the 25th day of March, 1924, of the Christian era corresponding to the 19th day of Sha'ban, 1342, Hijrah, which shall cease to have effect as from the date of the entry into force of this Agreement. The present Agreement shall be ratified. The ratifications shall be exchanged at Baghdad as soon as practicable, and the present Agreement shall come into force on the date of the exchange of ratifications and shall remain in force until Iraq enters the League of Nations.

Done in duplicate, in English and Arabic, of which, in the case of divergence, the English text shall prevail, at Baghdad this 4th day of March, 1931, of the Christian era, corresponding to the 14th day of Shawwal 1349, Hijrah.

F. H. HUMPHRYS.  
NOURY SAID.

---

OFFICE OF THE COUNCIL OF MINISTERS,  
BAGHDAD,

SIR,

Dated 4th March, 1931.

WITH reference to the Judicial Agreement which we have signed this day, I have the honour to confirm that whereas it is desirable that certain amendments should be made in Criminal Procedure

869

in order to give effect generally to the purposes of the Agreement, it is understood that the Iraq Government will submit to Parliament a draft law to this end. This law will contain provisions under the general heads set out in the schedule to this letter.

It is understood that ratifications of the Agreement signed this day shall not be exchanged until this legislation has been enacted.<sup>(4)</sup>

I have, &c.

NOURY SAID.

His Excellency Sir F. H. Humphrys,  
G.C.V.O., K.C.M.G., K.B.E., C.I.E.,  
His Britannic Majesty's High Commissioner  
in Iraq.

---

### SCHEDULE.

---

#### GENERAL HEADINGS OF LEGISLATION CONTEMPLATED.

1. The appointment and powers of Magistrates.
  2. Concerning preliminary investigations.
  3. The jurisdiction of and distribution of work of Courts of Sessions.
  4. Procedure with regard to Arrest Warrants.
  5. Provision for translation of proceedings to Foreigners.
  6. Provision regarding domiciliary visits.
  7. Rules of Evidence containing provision for (*inter alia*)
    - (a) the admissibility or otherwise of the evidence of spouses, parents and children;
    - (b) ensuring no discrimination on the grounds of a witness' religious belief;
    - (c) regulating the admission in evidence of confessions;
    - (d) the corroboration of evidence;
    - (e) the reception of the best evidence.
- 

<sup>(4)</sup> Baghdad Criminal Procedure Supplemental Law No. 42 of 1931, dated April 15, 1931, published in "Iraq Government Gazette" No. 972 of April 23, 1931.