

MISCELLANEOUS No. 3 (1921). 721

DRAFT MANDATES

FOR

MESOPOTAMIA AND PALESTINE

As Submitted for the Approval of the League of Nations.

Presented to Parliament by Command of His Majesty.



LONDON:

PRINTED AND PUBLISHED BY
HIS MAJESTY'S STATIONERY OFFICE.

To be purchased through any Bookseller or directly from
H.M. STATIONERY OFFICE at the following addresses:
IMPERIAL HOUSE, KINGSWAY, LONDON, W.C. 2, and
28, ABINGDON STREET, LONDON, S.W. 1;
37, PETER STREET, MANCHESTER;
1, ST. ANDREW'S CRESCENT, CARDIFF;
23, FORTH STREET, EDINBURGH;
or from E. PONSONBY, LTD., 116, GRAFTON STREET, DUBLIN.

1921.

[Cmd. 1176.]

Price 2d. Net.

Draft Mandates.

No. 1.

Draft of the Mandate for Mesopotamia as submitted by Mr. Balfour on December 7, 1920, to the Secrétariat-General of the League of Nations for the approval of the Council of the League of Nations.

THE COUNCIL OF THE LEAGUE OF NATIONS.

WHEREAS by Article 132 of the Treaty of Peace signed at Sèvres on the tenth day of August, 1920, Turkey renounced in favour of the Principal Allied Powers all rights and title over Mesopotamia, and whereas by Article 94 of the said treaty the High Contracting Parties agreed that Mesopotamia should, in accordance with the fourth paragraph of Article 22 of Part I (Covenant of the League of Nations), be provisionally recognised as an independent State, subject to the rendering of administrative advice and assistance by a Mandatory until such time as it is able to stand alone, and that the determination of the frontiers of Mesopotamia, other than those laid down in the said treaty, and the selection of the Mandatory would be made by the Principal Allied Powers; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as Mandatory for Mesopotamia; and

Whereas the terms of the Mandate in respect of Mesopotamia have been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the Mandate in respect of the said territories and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions;

Hereby approves the terms of the said Mandate as follows:—

ARTICLE 1.

The Mandatory will frame within the shortest possible time, not exceeding three years from the date of the coming into force of this Mandate, an Organic Law for Mesopotamia. This Organic Law shall be framed in consultation with the native authorities, and shall take account of the rights, interests and wishes of all the populations inhabiting the mandated territory. It shall contain provisions designed to facilitate the progressive development of Mesopotamia as an independent State. Pending the coming into effect of the organic law, the administration of Mesopotamia shall be conducted in accordance with the spirit of this Mandate.

ARTICLE 2.

The Mandatory may maintain troops in the territories under his Mandate for the defence of these territories. Until the entry into force of the Organic Law and the re-establishment of public security, he may organise and employ local forces necessary for the maintenance of order and for the defence of these territories. Such forces may only be recruited from the inhabitants of the territories under the Mandate.

The said local forces shall thereafter be responsible to the local authorities, subject always to the control to be exercised over these forces by the Mandatory, who shall not employ them for other than the above-mentioned purposes, except with the consent of the Mesopotamian Government.

Nothing in this article shall preclude the Mesopotamian Government from contributing to the cost of the maintenance of any forces maintained by the Mandatory in Mesopotamia.

The Mandatory shall be entitled at all times to use the roads, railways, and ports of Mesopotamia for the movement of troops and the carriage of fuel and supplies.

(A 11 600)

ARTICLE 3.

The Mandatory shall be entrusted with the control of the foreign relations of Mesopotamia, and the right to issue exequaturs to consuls appointed by foreign Powers. It shall also be entitled to afford diplomatic and consular protection to citizens of Mesopotamia when outside its territorial limits.

ARTICLE 4.

The Mandatory shall be responsible for seeing that no Mesopotamian territory shall be ceded or leased to or in any way placed under the control of the Government of any foreign Power.

ARTICLE 5.

The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, are definitely abrogated in Mesopotamia.

ARTICLE 6.

The Mandatory shall be responsible for seeing that the judicial system established in Mesopotamia shall safeguard (a) the interests of foreigners; (b) the law, and (to the extent deemed expedient) the jurisdiction now existing in Mesopotamia with regard to questions arising out of the religious beliefs of certain communities (such as the laws of Wakf and personal status). In particular the Mandatory agrees that the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders.

ARTICLE 7.

Pending the making of special extradition agreements with foreign Powers relating to Mesopotamia, the extradition treaties in force between foreign Powers and the Mandatory shall apply to Mesopotamia.

ARTICLE 8.

The Mandatory will ensure to all complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals. No discrimination of any kind shall be made between the inhabitants of Mesopotamia on the ground of race, religion or language. Instruction in and through the medium of the native languages of Mesopotamia shall be promoted by the Mandatory.

The right of each community to maintain its own schools for the education of its own members in its own language (while conforming to such educational requirements of a general nature as the Administration may impose) shall not be denied or impaired.

ARTICLE 9.

Nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of the sacred shrines, the immunities of which are guaranteed.

ARTICLE 10.

The Mandatory shall be responsible for exercising such supervision over missionary enterprise in Mesopotamia as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Mesopotamia to obstruct or interfere with such enterprise or to discriminate against any missionary on the ground of his religion or nationality.

ARTICLE 11.

The Mandatory must see that there is no discrimination in Mesopotamia against the nationals of any State member of the League of Nations (including companies

incorporated under the laws of such State) as compared with the nationals of the Mandatory or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of ships or aircraft. Similarly, there shall be no discrimination in Mesopotamia against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid the Mesopotamian Government may on the advice of the Mandatory impose such taxes and customs duties as it may consider necessary and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population.

Nothing in this Article shall prevent the Mesopotamian Government on the advice of the Mandatory, from concluding a special customs arrangement with any State, the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 12.

The Mandatory will adhere on behalf of Mesopotamia to any general international conventions already existing or that may be concluded hereafter with the approval of the League of Nations respecting the slave traffic, the traffic in arms and ammunition, and the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, laws of aerial navigation, railways and postal, telegraphic and wireless communication, or artistic, literary or industrial property.

ARTICLE 13.

The Mandatory will secure the co-operation of the Mesopotamian Government, so far as social, religious and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ARTICLE 14.

The Mandatory will secure the enactment within twelve months from the coming into force of this Mandate, and will ensure the execution of a Law of Antiquities, based on the contents of Article 421 of Part XIII of the Treaty of Peace with Turkey. This law shall replace the former Ottoman Law of Antiquities, and shall ensure equality of treatment in the matter of archaeological research to the nationals of all States, members of the League of Nations.

ARTICLE 15.

Upon the coming into force of the Organic Law an arrangement shall be made between the Mandatory and the Mesopotamian Government for settling the terms on which the latter will take over Public Works and other services of a permanent character, the benefit of which will pass to the Mesopotamian Government. Such arrangement shall be communicated to the Council of the League of Nations.

ARTICLE 16.

The Mandatory shall make to the Council of the League of Nations an annual report as to the measures taken during the year to carry out the provisions of the Mandate. Copies of all laws and regulations promulgated or issued during the year shall be communicated with the report.

ARTICLE 17.

The consent of the Council of the League of Nations is required for any modification of the terms of the present Mandate, provided that in the case of any modification proposed by the Mandatory such consent may be given by a majority of the Council.

[5718]

ARTICLE 4.

An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

The Zionist organisation, so long as its organisation and constitution are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

ARTICLE 5.

The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any foreign Power.

ARTICLE 6.

The Administration of Palestine, while ensuring that the rights and position of other sections of the population are not prejudiced, shall facilitate Jewish immigration under suitable conditions and shall encourage in co-operation with the Jewish agency referred to in Article 4 close settlement by Jews on the land, including State lands and waste lands not required for public purposes.

ARTICLE 7.

The Administration of Palestine will be responsible for enacting a nationality law. There shall be included in this law provisions framed so as to facilitate the acquisition of Palestinian citizenship by Jews who take up their permanent residence in Palestine.

ARTICLE 8.

The immunities and privileges of foreigners, including the benefits of consular jurisdiction and protection as formerly enjoyed by Capitulation or usage in the Ottoman Empire, are definitely abrogated in Palestine.

ARTICLE 9.

The Mandatory shall be responsible for seeing that the judicial system established in Palestine shall safeguard (a) the interests of foreigners; (b) the law, and (to the extent deemed expedient) the jurisdiction now existing in Palestine with regard to questions arising out of the religious beliefs of certain communities (such as the laws of Wakf and personal status). In particular the Mandatory agrees that the control and administration of Wakfs shall be exercised in accordance with religious law and the dispositions of the founders.

ARTICLE 10.

Pending the making of special extradition agreements relating to Palestine, the extradition treaties in force between the Mandatory and other foreign Powers shall apply to Palestine.

ARTICLE 11.

The Administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country and, subject to Article 311 of the Treaty of Peace with Turkey, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The Administration may arrange with the Jewish agency mentioned in Article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the Administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the Administration.

ARTICLE 12.

The Mandatory shall be entrusted with the control of the foreign relations of Palestine, and the right to issue exequaturs to consuls appointed by foreign Powers. It shall also be entitled to afford diplomatic and consular protection to citizens of Palestine when outside its territorial limits.

ARTICLE 13.

All responsibility in connection with the Holy Places and religious buildings or sites in Palestine, including that of preserving existing rights, of securing free access to the Holy Places, religious buildings and sites and the free exercise of worship, while ensuring the requirements of public order and decorum, is assumed by the Mandatory, who will be responsible solely to the League of Nations in all matters connected therewith: provided that nothing in this Article shall prevent the Mandatory from entering into such arrangement as he may deem reasonable with the Administration for the purpose of carrying the provisions of this Article into effect; and provided also that nothing in this Mandate shall be construed as conferring upon the Mandatory authority to interfere with the fabric or the management of purely Moslem sacred shrines, the immunities of which are guaranteed.

ARTICLE 14.

In accordance with Article 95 of the Treaty of Peace with Turkey, the Mandatory undertakes to appoint as soon as possible a special Commission to study and regulate all questions and claims relating to the different religious communities. In the composition of this Commission the religious interests concerned will be taken into account. The chairman of the Commission will be appointed by the Council of the League of Nations. It will be the duty of this Commission to ensure that certain Holy Places, religious buildings or sites regarded with special veneration by the adherents of one particular religion, are entrusted to the permanent control of suitable bodies representing the adherents of the religion concerned. The selection of the Holy Places, religious buildings or sites so to be entrusted, shall be made by the Commission, subject to the approval of the Mandatory.

In all cases dealt with under this Article, however, the right and duty of the Mandatory to maintain order and decorum in the place concerned shall not be affected, and the buildings and sites will be subject to the provisions of such laws relating to public monuments as may be enacted in Palestine with the approval of the Mandatory.

The rights of control conferred under this Article will be guaranteed by the League of Nations.

ARTICLE 15.

The Mandatory will see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, is ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language (while conforming to such educational requirements of a general nature as the Administration may impose) shall not be denied or impaired.

ARTICLE 16.

The Mandatory shall be responsible for exercising such supervision over missionary enterprise in Palestine as may be required for the maintenance of public order and good government. Subject to such supervision, no measures shall be taken in Palestine to obstruct or interfere with such enterprise or to discriminate against any missionary on the ground of his religion or nationality.

ARTICLE 17.

The Administration of Palestine may organise on a voluntary basis the forces necessary for the preservation of peace and order, and also for the defence of the country, subject, however, to the supervision of the Mandatory, who shall not use them for purposes other than those above specified save with the consent of the Administration of Palestine, and except for such purposes, no military, naval or air forces shall be raised or maintained by the Administration of Palestine.

Nothing in this Article shall preclude the Administration of Palestine from contributing to the cost of the maintenance of forces maintained by the Mandatory in Palestine.

The Mandatory shall be entitled at all times to use the roads, railways and ports of Palestine for the movement of troops and the carriage of fuel and supplies.

ARTICLE 18.

The Mandatory must see that there is no discrimination in Palestine against the nationals of any of the States members of the League of Nations (including companies incorporated under their laws) as compared with those of the Mandatory or of any foreign State in matters concerning taxation, commerce, or navigation, the exercise of industries or professions, or in the treatment of ships or aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this Mandate the Administration of Palestine may on the advice of the Mandatory impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population.

Nothing in this Article shall prevent the Government of Palestine on the advice of the Mandatory from concluding a special customs agreement with any State, the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

ARTICLE 19.

The Mandatory will adhere on behalf of the Administration to any general international conventions already existing or that may be concluded hereafter with the approval of the League of Nations respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

ARTICLE 20.

The Mandatory will co-operate on behalf of the Administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

ARTICLE 21.

The Mandatory will secure, within twelve months from the date of the coming into force of this Mandate, the enactment, and will ensure the execution of a Law of Antiquities based on the provisions of Article 421 of Part XIII of the Treaty of Peace with Turkey. This law shall replace the former Ottoman Law of Antiquities, and shall ensure equality of treatment in the matter of archaeological research to the nationals of all States, members of the League of Nations.

