

N° 473.

**GRANDE-BRETAGNE
ET ÉGYPTE**

Echange de notes concernant le
« Bill d'Indemnité » égyptien et
la cessation de l'état de siège en
Égypte. Le Caire, le 5 juillet 1923.

GREAT BRITAIN AND EGYPT

Exchange of Notes regarding the
Egyptian Indemnity Act and the
termination of Martial Law in
Egypt. Cairo, July 5, 1923.

No. 473. — NOTES EXCHANGED BETWEEN THE BRITISH AND EGYPTIAN GOVERNMENTS REGARDING THE EGYPTIAN INDEMNITY ACT AND TERMINATION OF MARTIAL LAW IN EGYPT. CAIRO, JULY 5, 1923.

French and English official texts, communicated by His Britannic Majesty's Foreign Office. The registration of this exchange of notes took place September 1, 1923.

¹ TRADUCTION. — TRANSLATION.

DECISION OF THE EGYPTIAN COUNCIL OF MINISTERS RELATIVE TO THE INDEMNITY ACT.

“ Journal officiel ” of July 5, 1923, No. 67.

DECISION.

The Council of Ministers,

Having heard the verbal report presented by his Excellency the President of the Council of Ministers stating the result of the negotiations which have taken place with the Representative of the British Government in Egypt with a view to the abrogation of Martial Law ;

Having examined the documents prepared as the result of the above-mentioned negotiations, namely :

- (1) A draft law promulgating the Act of Indemnity ;
- (2) A draft ministerial order of the Minister of Justice instituting a committee to deal with proposals to remit sentences passed on persons condemned by Military Courts set up under Martial Law ;
- (3) A draft note to be addressed to the Representative of His Britannic Majesty in Egypt containing explanations and declarations interpreting and supplementing the above-mentioned documents ;
- (4) The draft text, communicated by the said Representative, of a reply to the above-mentioned note ;
- (5) The draft text, communicated by the said Representative, of a proclamation to be issued by the military authorities abrogating Martial Law ;

Considering that the contents of the above documents conform with the interests of the country and in no wise prejudice future negotiations with the object of finally establishing, after the convocation of Parliament, the political relations of Egypt and Great Britain ;

Decides :

- (a) To advise His Majesty the King to approve the draft law promulgating an Act of Indemnity ;

¹ Communiqué par le Ministère des Affaires étrangères de Sa Majesté Britannique.

¹ Communicated by His Britannic Majesty's Foreign Office.

(b) To approve the draft ministerial order instituting the above-mentioned committee;

(c) To authorise his Excellency the Minister for Foreign Affairs to sign, in the name of the Egyptian Government, the note to be addressed to his Excellency the High Commissioner of His Britannic Majesty in Egypt, which runs as follows:—

“ (1) In execution of the decision which was taken by the Council of Ministers at its meeting of the 5th July, 1923, and of which a copy is enclosed, I have the honour to transmit to your Excellency the text of the law which will be published concurrently with the proclamation of the British authorities declaring the abrogation of Martial Law, the text of which proclamation had been previously communicated to the Egyptian Government.

“ (2) The object of this law, in the form in which it has been drawn up, is to withdraw completely and definitely from the competence of Egyptian courts all claims direct or indirect in respect of the acts, results or consequences of British Martial Law as from the 2nd November, 1914, the date on which such Martial Law was established over the whole territory of Egypt.

“ (3) In conformity with the above-mentioned decision of the Council of Ministers, the Egyptian Government binds itself to maintain in force this law, which must be considered as forming an integral part of an agreement entered into with the Government of His Britannic Majesty.

“ (4) By the same decision I am authorised to make the following declarations to your Excellency:

“ (5) The Egyptian Government agrees that the measures taken under Martial Law with a view to the control of enemy property, and to the application of certain provisions of the Treaties of Peace concerning such property, shall continue as in the past to be applied in Egypt under Martial Law until full effect shall have been given to the said measures under the control and responsibility of the Government of His Britannic Majesty.

“ (6) As regards all real estate requisitioned, acquired or occupied by the British military authorities after the proclamation of the 2nd November, 1914, the Egyptian Government expressly undertakes to respect and cause to be respected the *status quo* existing *de facto*, on the understanding that the settlement of the final status of this property shall be reserved for future negotiations to take place between the two Governments after the convocation of an Egyptian Parliament.

“ (7) With regard to the persons condemned by the Military Courts set up under Martial Law, the same decision of the Council of Ministers, dated the 5th July, 1923, instructs the Minister of Justice to issue, without delay, a ministerial order, the text of which is attached, enacting that a committee comprising the Judicial Adviser as President (with casting vote, in the case of votes being equally divided), the Vice-President of the Native Court of Appeal and two Egyptian Judges of the Court of Appeal, should be set up with the exclusive power to prepare proposals for the remission or commutation of sentences for which, under Article 68 of the Native Criminal Code, the recommendation of the Minister of Justice is required.

“ (8) The sentences pronounced by the above-mentioned Military Courts, set up under Martial Law, shall be remitted or reduced only in pursuance of a majority vote of the said committee.

“ (9) In order to give full effect to the undertaking thus given to the British Government, it is agreed between the two Governments that any eventual change in the composition of this committee shall be made only with the consent of the Government of His Britannic Majesty, and in such manner as will ensure a majority of votes to the members proposed by that Government.

„ (10) The political rights and legal status of the persons condemned by the „ above-mentioned courts shall remain exclusively regulated by the provisions of „ the Electoral Law and the Egyptian Criminal Code.

„ (11) I desire, in conclusion, to beg your Excellency to give me, in the name „ of the British Government, an assurance that, in the event of the Egyptian Govern- „ ment finding itself exposed in any way to being called to account by reason of measures „ taken by the British military authorities under Martial Law, the Government of „ His Britannic Majesty will always be ready to come to an agreement with the Egyp- „ tian Government in a spirit of justice and equity with a view to reaching the solution „ which the question demands.”

ALEXANDRIA, July 5, 1923.

President of the Council of Ministers,
Y. IBRAHIM.

LAW No. 25 OF 1923.

ACT OF INDEMNITY.

We, King of Egypt,

Seeing that the General Officer Commanding His Britannic Majesty's Forces in Egypt, by a proclamation issued by him on the 2nd November, 1914, placed Egyptian territory under Martial Law as from that date ;

And seeing that in agreement with the British Government the Egyptian Government considers that the time has come to take the legislative measures which are necessary to permit the withdrawal of this proclamation and the abrogation of the existing régime of Martial Law ;

On the proposal of our Council of Ministers ;

Decree :

Art. 1. The expression “ under martial law ” has in the present law the sense of “ under the express or implied authority of the General Officer Commanding-in-Chief the Forces of His Britannic Majesty in Egypt during the period from the 2nd November, 1914, to the date of the coming into effect of the present law.”

The term “ military authority ” includes every court-martial, every military court, committee, commission, council of arbitration or other similar body acting or instituted under Martial Law as well as every official or individual acting under the same law.

Art. 2. All actions, claims, prosecutions or other legal proceedings, including all proceedings by way of counterclaim, defence or demurrer, the object or effect of which is to impugn, either directly by annulment, retraction or rescission, or indirectly by way of damages, set-off, release from charges or liabilities, repayment, recovery, revindication or restitution of property, or in any other manner, the validity of any proclamation, disposition, order, measure or decision or more generally any act prescribed or done by the military authority under Martial Law, are hereby declared to be henceforth inadmissible before any court in the country, whether such proceedings be now pendant or be instituted in the future. This prohibition extends to proclamations and orders relating to the movable and immovable property of the ex-Khedive Abbas Hilmi Pasha, as well as to sales and transfers of the said property effected by the Public Custodian of Enemy Property.

In all cases coming within the terms of the preceding paragraph, the Court shall dismiss the proceedings *ex officio* whatever may be the stage they have reached.

Art. 3. The prohibition established by the preceding article extends to all proceedings relating to any alleged false denunciation made to the military authorities or relating to any case which

has been the object of a military enquiry or relating to any alleged false testimony given in the course of an enquiry before the same authorities.

Art. 4. Our Minister of Justice is charged with the execution of the present law, which shall enter into force upon its publication in the "Official Journal."

Given at the Palace of Mountazah, the 5th July, 1923.

FOUAD.

By the King :

The President of the Council of Ministers,

Y. IBRAHIM.

The Minister of Justice,

AHMED ZULFICAR.

MINISTERIAL ORDER.

The Minister of Justice,

Having considered Article 68 of the Native Criminal Code ;

And having considered the decision of the Council of Ministers dated the 5th July, 1923 ;

Orders as follows :

Art. 1. A committee is instituted in the Ministry of Justice comprising the Judicial Adviser as President, the Vice-President of the Native Court of Appeal and two Egyptian Judges of the Court of Appeal.

It will be the function of this committee to submit to the Minister of Justice proposals for the total or partial remission or for the commutation of sentences passed on persons condemned by the Military Courts set up under British Martial Law with a view to the recommendations contemplated by Article 68 of the Native Criminal Code.

In the event of the votes of the above committee being divided, the President shall have the casting vote.

Art. 2. The present ministerial order shall come into force upon publication in the "Official Journal."

Given at Bulkeley, the 5th July, 1923.

AHMED ZULFICAR.

EXCELLENCY,

July 5, 1923.

(The text which follows is identical to that of the Decision of the Egyptian Council of Ministers relative to the Indemnity Acts, given under Nos. I to II.)

I have the honour to be, etc.

The Minister for Foreign Affairs,
A. HECHMAT.

To his Excellency
Field-Marshal Viscount ALLENBY, G.C.B., G.C.M.G.,
High Commissioner of His Britannic
Majesty's Government.

July 5, 1923.

EXCELLENCY,

I have the honour to acknowledge the receipt of your Excellency's note of to-day's date, in which you transmit the text of the Act of Indemnity which is to be published at the same time as the Proclamation of the British military authorities declaring the abrogation of Martial Law.

The text of this Proclamation which will be promulgated has already been communicated to the Egyptian Government.

I take note that the Egyptian Government undertakes to maintain in force this law, which is to be considered as an integral part of an agreement entered into with the Government of His Britannic Majesty.

I have at the same time the honour to assure your Excellency that the Government of His Britannic Majesty is in agreement with all the declarations contained in paragraphs 2-10 inclusive of the above-mentioned note and accepts them in so far as they concern His Majesty's Government. As regards the last declaration in paragraph 11, I am authorised to inform your Excellency that, although His Majesty's Government are unable to assume an unqualified responsibility, they give the Egyptian Government the full assurance that, should the eventualities contemplated in the note arise, His Majesty's Government will always be ready to come to an agreement with the Egyptian Government in a spirit of justice and equity with a view to reaching the solution which the question demands.

I have, etc.,

ALLENBY, *F. M.*

To his Excellency
Ahmed HECHMAT Pasha,
Minister for Foreign Affairs