

N° 3862.

ALLEMAGNE,
GRANDE-BRETAGNE
ET IRLANDE DU NORD,
CANADA, COMMONWEALTH
D'AUSTRALIE,
NOUVELLE-ZÉLANDE,
UNION SUD-AFRICAIN
ET INDE ET FRANCE

Convention relative aux sépultures
militaires. Signée à Berlin, le
20 décembre 1935.

GERMANY, GREAT BRITAIN
AND NORTHERN IRELAND,
CANADA, COMMONWEALTH
OF AUSTRALIA,
NEW ZEALAND,
UNION OF SOUTH AFRICA
AND INDIA AND FRANCE

Agreement in regard to War Graves.
Signed at Berlin, December 20th,
1935.

No. 3862. — AGREEMENT¹ BETWEEN 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 AND THE GERMAN AND FRENCH GOVERNMENTS IN REGARD TO WAR GRAVES. SIGNED AT BERLIN, DECEMBER 20TH, 1935.

English, German and French official texts communicated by His Majesty's Secretary of State for Foreign Affairs in Great Britain. The registration of this Agreement took place March 23rd, 1936.

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,

THE GERMAN GOVERNMENT

and, as regards the provisions in Articles 7 and 8 of this Agreement,

THE GOVERNMENT OF THE FRENCH REPUBLIC,

Have concluded, in respect of the graves of members of the Naval, Military and Air Forces of the British Empire and of Germany, the Agreement which follows :

Article I.

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, and established for the purpose (*inter alia*) of caring for the war graves of the British Empire all over the world.

The expression " British Military Cemeteries, Graves and Memorials " means the cemeteries and graves in German territory of members of the Naval, Military or Air Forces of the British Empire resulting from the Great War and the memorials in the said territory relating to the same, which are the subject of this Agreement.

The Commission are recognised by the German Government as the sole British Authority charged with the care of the British Military Cemeteries, Graves and Memorials.

¹ Came into force December 20th, 1935.

Article 2.

The care of German war graves is in the hands of the Official German War Graves Service ("Amtlicher Deutscher Kriegsgräberdienst"), which is referred to in this Agreement as the "Kriegsgräberdienst". The German unofficial association, the "Volksbund Deutsche Kriegsgräberfürsorge", functions in concert and in collaboration with the Kriegsgräberdienst.

Article 3.

The German Government agrees that the Commission shall be at liberty to continue as heretofore to provide themselves for the maintenance of the British Military Cemeteries situated at Cologne, Berlin (Stahnsdorf), Hamburg (Ohlsdorf), Niederzwehren (Cassel) and Zehrendorf, and to employ British subjects as custodians of the same.

The appointment of these custodians is subject to the approval of the German Government, and they shall be given a document of authorisation in which the competent authorities are expressly requested to give them all assistance necessary for carrying out their duties.

The Commission are authorized to lay out and maintain the said cemeteries in accordance with their own principles of treatment and to exercise the internal regulation and control of them.

The same right shall be accorded to the Kriegsgräberdienst, if and in so far as it decides to take over the administration of the German War Cemeteries and Graves in British territory.

Article 4.

The German Government takes due note of the existence of British War Graves in Germany, outside the limits of the cemeteries referred to in the preceding Article.

The German Government grants to the Commission full liberty to inspect the condition of the said graves from time to time. The same liberty will be granted to the Kriegsgräberdienst in respect of the German War Graves in British territory. The contracting Governments undertake to take into consideration the representations of the Commission or the Kriegsgräberdienst should any case be found where attention to any grave is considered necessary.

Article 5.

The Commission shall be at liberty to import into Germany free of Customs or import dues for use or store in Germany all monuments, such as headstones, stone, marble, or other building material, tools, appliances and stores, which may be required by the Commission in maintaining, repairing or carrying out replacements in the British Military Cemeteries, graves and memorials; and also (subject to such conditions as the competent German Authorities may consider necessary as a safeguard against the introduction of disease) all trees, shrubs, plants, seeds and bulbs required for the horticultural treatment of the same.

The Commission will use their best endeavours to ensure that the Kriegsgräberdienst shall be accorded the same rights, if and in so far as it decides to rebuild, repair or carry out replacements in the case of the German War Cemeteries and Graves in British territory.

Article 6.

Bodies of members of the Forces of the British Empire and of the German Forces buried in cemeteries or in Military graves shall not be exhumed for removal and subsequent reburial without

the approval of the Commission or the Kriegsgräberdienst, as the case may be. The Governments concerned undertake to instruct the competent authorities to refuse all applications for permission for the removal of bodies unless preferred through the Commission or the Kriegsgräberdienst, as the case may be.

Article 7.

The Commission shall appoint a Mixed Committee to represent the Commission in Germany in their relations with the German Authorities, both Military and Civil, and especially to exercise in the name of the Commission the rights reserved to them under the present Agreement. This Committee shall be competent to perform, in the name of the Commission and within the limits of the powers delegated to it by the latter, all civil acts necessary to enable it to fulfil its object.

This Committee shall also be competent to act, subject to any conditions which the German Government may from time to time determine, as representative of the Kriegsgräberdienst in its relations with the Commission in matters concerning the German War Graves situated in British territory.

To facilitate the examination and solution of questions affecting the German War Graves situated in the British Cemeteries in France, it is agreed that members appointed on the recommendation of the French Government shall participate in the discussions of the Committee concerning the war graves in question.

Article 8.

The Mixed Committee shall be composed of four honorary members, of whom two shall be British and two German, and of eight official members, of whom four shall be British and four German, and it shall also include, for the consideration of the question referred to in the last paragraph of the preceding Article, one French honorary member and one French official member.

The German and French members shall be appointed on the recommendation of the German Government or the French Government, as the case may be, which shall be requested and transmitted through the diplomatic channel.

The honorary members shall be chosen from persons who have won distinction in the Army or the Navy, in letters, art or science.

The Official of the German Ministry for Foreign Affairs responsible for the Kriegsgräberdienst, the Direktor of the "Zentralnachweiseamt für Kriegerverluste und Kriegergräber" and the Bundesführer of the "Volksbund Deutsche Kriegsgräberfürsorge" shall be chosen as German official members by virtue of the administrative functions exercised by them.

The official members shall be regarded as appointed at the moment they assume office, and shall cease to form part of the Committee from the day when they vacate their said offices. The German Government and the French Government undertake to notify the Commission of all changes which may take place amongst the German and French official members.

The Commission shall select the Secretary General of the Mixed Committee.

Article 9.

The Belgian Government shall, in so far as concerns the German War Graves in British Cemeteries in Belgium, be invited to accede to this Agreement and if they agree to do so the membership of the Mixed Committee shall be increased by two Belgian members whose selection and appointment shall be made under similar conditions to those which govern the selection and the appointment of the French members.

In witness whereof the undersigned, duly authorized to that effect, have signed the present Agreement in the English, German and French languages, all being of equal validity.

Done at Berlin, the 20th December, 1935, in a single copy which shall be deposited in the archives of the German Government, and of which certified copies shall be furnished to each contracting Government.

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

Eric PHIPPS.

For the Government of Canada :

Eric PHIPPS.

For the Government of the Commonwealth of Australia :

Eric PHIPPS.

For the Government of New Zealand :

Eric PHIPPS.

For the Government of the Union of South Africa :

S. F. N. GIE.

For the Government of India :

Eric PHIPPS.