

British High Commission,
Constantinople.
7th July 1919.

23

F.O. 371/4174

No. 1332/R.1902.

My Lord,

118392

20 JUL 1919

Enclosure.

I have the honour to enclose herewith a full translation of the judgment of the special Martial appointed to deal with offences connected with the war, in the case of eleven persons accused of participation in the criminal activities of the Committee of Union and Progress.

2. It is interesting to see how skilfully the Turkish penal code has been manipulated to cover the acts attributed to the accused, and the manner in which the sentences have been apportioned among the absent and the present so as to effect a minimum of real bloodshed. The following table summarises the result:-

NAME	VERDICT.	SENTENCE.	Present or Absent.		Article of Code
			Present.	Absent.	
1- Talaat,	Guilty	Death.	Absent.		45
2- Erzer,	"	"	"	"	"
3- Jenal,	"	"	"	"	"
4- Dr. Nazim,	"	"	"	"	"
5- Javid,	"	15 years	"	"	45 & 55
6- M. Sheref,	"	"	"	"	45 & 55
7- M. Kiazim,	"	"	Present.	"	45 & 55
8- Rifaat,	Not guilty.	-	"	"	
9- Hashim,	Not guilty	-	"	"	
10- Osman,	Cases separated from main case.				
11- Suleiman Dastani					

I have the honour to be,
My Lord,
Your Lordship's obedient servant,

Richard ...

ACTING HIGH COMMISSIONER.

Right Honourable

Lord Curzon of Kedleston, B.C., P.C.

C O P Y

After having heard the accusations, the statements and the defence of the two parties and examined entirely all the documents of the case the Court deliberated.

The accused and their counsel plead not guilty and demand acquittal. But as in the bills of indictment of the 3rd, 20th and 22nd May and 9th, 10th and 25th June 1335, ¹⁹¹⁴ the prosecution commits to the responsibility of the moral person of the Committee of Union & Progress, dissolved, many charges and crimes and demands that it be committed for trial, that it stand for arraignment as being the perpetrators of these crimes, the members of the general council who personify this moral person as well as their punishment, it has been judged necessary to study the case of the said Society.

In consequence, the facts and acts which have followed the institution of this Society have been punctiliously examined. The intentions and the acts of certain persons, inspired by patriotic feelings and belonging to the time anterior to the change of regime staying still concealed only the acts having taken place openly after this time are summed up as follows :

The Ottomans, thirsting for freedom and justice, considered that the restiveness which took place on the mountains of Rezné, on 9th July 1324, as ¹⁹⁰⁸ a source of liberty and a gift from heaven, and acquired the firm belief that it constituted the only remedy capable of healing the wounds opened by tyranny and oppression. In waiting with a decision full of hope that the torrent take its natural flow, they have, without impeding its running, let free the course, seeking with great sincerity and docility to facilitate all its movements ; the hope that after having taken its normal course it would assure liberty and justice to all parts of the vast Ottoman Empire and the fine words that were heard from time to time fortified this movement.

Some tried to distort the general impression produced by the surrendering - under various pretexts - of several parts of the Empire owing to political faults committed in the meantime in presenting it as the consequence of the faults of the old regime. But after the successive losses and the deplorable consequences of the wars of Tripolitain and of the Balkans, no de

was left that though a long enough time had passed since the restoration of liberty, no line of conduct had been either set up or followed with the view of the good administration of the country and that no serious action had been undertaken to establish who was responsible for all this misfortune. The fact that their hopes and waiting had been betrayed so has moved and perturbed the friends of freedom. A part of those who were supposed to be devoted to the national cause, being led astray by ambitious feelings, engaged themselves on the wrong road so that the strange doings that the nation had considered as the source of freedom have had the result of placing the country in a deplorable position. Amongst them some rash persons who had shown themselves to the public for their independent ideas turned the government aside and whilst making a show of their love of legality formed a group of action with people whom they had succeeded in deceiving and corrupting.

These as well as their affiliate of the vilayets used their efforts to take into their hands the government and have at last reached their goal in enrolling the responsible members of the Cabinet into their Central Council and so doing keeping them docile to their decisions.

As the Minister of Finance Djavid Bey said openly in his statements reported in the minutes of the 5th section of the Chambre des Députés on the 24th and 26th October 1334, this group of action of Union & Progress has shown in its decisions concerning the destiny of the nation and of the country, an audacity and an over-confidence such that they did not think it fit to submit to the ministers' Council the decision concerning the declaration of war, whilst even sovereigns do not take such decisions of their own initiative. Everybody having understood that this way of acting could not give good results, the acts of the committee that the opposition itself had respected seemed blameworthy to level-headed people.

On the other hand, the fact that the state of siege which had been abolished necessarily at the time of the change of regime has been maintained almost without interruption, that the Sublime Door has been attacked by a clique led by the senior members of the Committee of Union & Progress that the War Minister Nazim Pacha and his aide de camp were killed and that a Cabinet Union & Progress was formed after that the Cabinet of Kiamil Pacha was

overthrown; that at the time of the 2 cabinets which followed, the able and honest and experienced civil servants were dismissed and replaced by persons affiliated to the Committee has had for result : to give rise to justified general complaints against the arbitrary and tyrannical administration, to the point of making people regret the despotic regime, to dissatisfy more particularly the non-Moslem populations and above all to bring the Armenians (who realised that their belief that freedom would insure security and justice was not founded) to seek a favourable opportunity for the realisation of their national aims, which they envisaged before.

Questions of nationalities created between the different nationalities and even the Moslems have provoked cool feelings and divisions, interfering in so doing with Ottoman unity.

Considering that these facts have been established by investigations and enquiries and by the above-named bills of indictment; that there is no possibility to refute the five points set out and examined by our Court Martial or to maintain that they do not exist, we have acquired the conviction in our conscience that the personal crimes above mentioned assigned to the Committee of Union & Progress have been committed in such a way as to cast a slur on its name.

However, it has been found consistent with equity not to charge all the members of the Committee with the perpetration of the crimes so committed; but to apply the dispositions of the law to those who have been interested or have participated, according to the part they took in them.

The Counsel for the defence said in his address to the Court that the existence of political societies was necessary because of freedom, that even now other societies can be found, that amongst others the party Freedom & Entente, has, like Union & Progress, headquarters, a General Council and branches and that it invites the Ministers belonging to it, to come to its councils.

Now, though in countries with a constitution, the existence of parties and societies is a necessity, it is not less true that in a normal order these cannot meddle with the executive power, only after having

obtained the majority in national assemblies; they leave the Cabinets which enjoy their confidence entirely free in their action; that except in taking care that the laws to be elaborated be established according to their programme, they cannot interfere with the business; that they try to oblige the Cabinets whose acts they do not approve of, to quit the power, not by threat, but in showing them their distrust.

On the other hand as far as the parties of our country are concerned though it is clear that until the opening of Parliament it is not possible to determine who will obtain the majority, it is evident that a group which would act in a manner contrary to the Charter of the Constitution, such as imposing its influence on the members of the executive power, or meddling in its action, or seeking to change the legal form of the Government, would have the same fate.

Consequently it has been decided after deliberation, that in the light of the phases of this trial, the above-mentioned assertions of the Counsel have no value for the defence.

The five points mentioned above are as follows :-

1. The crime of the massacre of Trebizonde, of Yozgad and of Boghzylyan which, it was established during the trials which took place at the Court Martial, was organised and executed by some chiefs of Union & Progress.

In admitting even, as it was alleged during the defense, that there are among these some who came to know of these crimes only after their perpetration, they have not prevented their recurring, no more than they have done anything to punish those who committed them.

2. According to the declarations he made to the Chambre des Députés and which are recorded in the minutes, Saïd Halim Pacha, Grand Vizir & President of the Committee Union & Progress, had at the beginning of the mobilization invited to his house the members of the Central Committee and had explained to them, giving useful arguments, that the participation of the country to the war would be very dangerous, and that neutrality would constitute the best attitude to assume in the conflict, but that he had failed to make them adopt his opinion and consequently the State had entered into war.

Moreover, Riza Bey, one of the responsible delegates of the Union & Progress, has admitted during his trial, that without waiting for the declaration of war, he began the hostilities by means of persons belonging to organized bands at Trébizonde, whom he sent into the interior of Russia.

Finally, Djavid Bey, then Finance Minister, Tchuruk-Soulou Mahmoud Pacha, Minister of Public Works, Oscan Effendi, Post & Telegraph Minister, and Sulciman Elbostani Effendi, Trade Minister, gave their resignation, for the reason that the war had been declared without the previous decision of the Council of Ministers. These facts establish that the war has not been declared by decision of the Ministers responsible, but deliberately by the Union & Progress who wanted it so.

3. As it appears from the declarations of H. Highness Ahmed Izzet Pacha, former Grand Vizir, his resignation from the War Ministry was provoked the interference of the Party in the Government's affairs.

4. As it results from the report read in 1332 amidst the Congress of Union & Progress and unanimously approved by its members, and from the information that the Préfecture of the town has supplied in answer to the communications sent by this Tribunal, ^k Némal Bey, Delegate from Constantinople, who had been put in charge by the Central Bureau of the Union & Progress of the provisioning, and whose nomination was ratified later on by the General Council of the Union, has first instituted a Council of Trade and after several societies & associations which have monopolized commercial transactions and have by these means seized the whole fortune of the population. The public wealth being concentrated so, exclusively in the hands of a limited number of persons and the above-mentioned societies, the result was that, owing to an inadequate nutrition, many Ottomans were crippled, or died, and that the forces at the disposal of the State for its defence have been reduced.

The reading of the same documents has established also that the Union & Progress has provoked at the same time the meddling of its Constantinople Bureau in the functions of the Government.

5. The fact that the former Cheikhul Islam Moussa Kiazim Effendi, answering an interpellation at the Senate re. the transfer of the tribunal from the Chéri to the Ministry of Justice said: "Do not ask for my opinion, it is the Party which demands this transfer. It must be done so", and that he confirmed these declarations during the trial, constitute an obvious proof of the interference of the Party in the State's affairs.

The five points reported above, as well as other facts told by public rumor and confirmed by the consequences they entailed, having established that the Ministers of the State were not left free to run an important part of the public affairs in accordance with their opinion and conviction and that they were led through interferences to act according to private views and aspirations, it becomes evident that the legal statute of the Ottoman Government comprising the three constitutive forces has been modified by the institution higher than these forces, of a fourth which forced itself by threat.

The Court Martial, taking into consideration the above-named crimes declares, unanimously, the culpability as principal factors of these crimes of the fugitives Talaat Pacha, former Grand Vizir, Enver Effendi, former War Minister, struck off the register of the Imperial Army, Djémal Effendi, former Navy Minister, struck off too from the Imperial Army, and Dr. Nazim Effendi, former Minister of Education, members of the General Council of the Union & Progress, representing the moral person of this party; as well as for that of the fugitives Djavid Bey, former Finance Minister, and Moustapha Chéref Bey, former Trade & Agriculture Minister, members of the said council, known as having participated in ^{the} crimes in question; for the culpability, unanimously, as to his participation to the established crime, and by the majority of 2/3rds as to the nature of the acts which constitute this crime, of Moussa Kiazim Effendi, here present, former Cheikhul-Islam and member of the said General Council seeing that, despite the declarations of

his agent and of the Attorney General aiming at excluding the hypothesis of his participation to the above-mentioned crimes because of his great education and of his eminent qualities, Moussa Kiazim Effendi, whilst able to inspire to people having had a superior education, such as the Attorney General and his agent, a favourable opinion as to his person, has constituted by the fact itself that he was, right at the beginning of the re-establishment of the Constitution, among the important and influential chiefs of the Union & Progress, an obstacle to the ignorant and less well educated people revise the idea that they had formed for themselves of the acts of the Committee considered logical and legal; that whilst he said during the trial, having run the affairs of The Union & Progress concerning religious instruction, he has answered the questions asked of him regarding some sermons and certain works the contents of which are contrary to the Law of Chéri, that he had not seen these works and that as far as the sermons are concerned, he thought that the questions treated there were not in conformity and has admitted that he had taken no step to ban them; then he has declared during the trial that to disown Union & Progress would be equivalent to abjure Islam, which evidently shows that he has a mentality which could not reconcile itself with the superior instruction ascribed to him that all these facts constitute, it is true aggravating circumstances, but that however, taking into consideration the results of the examination and of the enquiry, it was established that Moussa Kiazim Effendi having had a lot to do with the affairs of The Union & Progress re. the religious teaching was not considered to be among the principal factors of the above mentioned crimes;

Unanimously for a non-guilty verdict for Rifaat Bey, former President of the Senate, whose affiliation to the Union & Progress and the participation to the acts and crimes above mentioned have not been established and for his release, if he is not detained for another reason;

By the majority of the votes for a non-guilty verdict for Hachin Bey former Minister of the Posts & Telegraph the inquiry having confirmed the truth of his declarations : that he was given the post of Minister while he was in Berlin, without his previous consent being obtained, and that he was named as such despite his refusal, on his return to Constantinople, that his time had

coincided with the last years of the life of the Unionist Cabinet, he simply attended as observer, without participating in the deliberations of the 3 meetings of the General Council of the Union to which he had been invited and during which the only item on the agenda concerned internal organisation of the Union, and for his release if he is not detained for another reason.

Then the Court Martial has deliberated on the sentences.

The acts of Talaat, Enver, Djemal and Dr. Nazim falling under Article 45 of the Civil & Penal Code, 1st paragraph, those of Djavid, Moustapha Chéref and Moussa Kiazim of the same Article, paragraph 2, and Article 35 last paragraph, and these articles saying that "are called "co-authors and punished as the principal author, the individuals who "commit collectively a crime or each individual, being part of a certain "number of persons, who in the case of a crime consisting of several offenses "commits one or several of the latter with a view to accomplishing the "offence".

"Is put to death the person who is convicted of having by force modified "or suppressed the constitutional Charter, the form of the Government or "rule of the heredity of the Imperial Throne". "The accomplices of the "execution of a crime are in the case of absence of a special disposition "of the law, condemned to the following condemnations :

"the accomplices will be condemned to hard labour for at least 10 years "if the main offence is punishable by death or by hard labour for life",

the Court Martial pronounces, in accordance with the said stipulations of the Law the death penalty against Talaat, Enver, Djemal and Dr. Nazim; a penalty of 15 years hard labour against Djavid, Moustapha Chéref and Moussa Kiazim, orders the fugitives to be deprived of their civilian rights, and of the legal control of their sequestered property; decides that the non-guilty verdict given in the cases of Rifaat and Hachim Beys does not prevent them being tried, later, by the High Court, for their respective management of the affairs of the State; decides at the same time the separation of the trial of Osman Effendi, former Minister of the Post and Telegraph and of Sulaiman Elbostani Effendi, former Trade Minister, taking

into consideration as it appears from the inquiry that having been in Europe for a long time they were not aware, in the present circumstances, of the order to appear sent to them, and even if they knew of it they would probably not be able to return here.

Unanimously decided by default in the cases of Talaat, Enver, Djémal, Dr. Nazim, Djavid, Moustapha Chéref, and Oscan and Suleiman Elbostani Effendis, and by a majority in the cases of Rifaat and Hachim Beys and Moussa Kiazim.

The 6th Chawal 1337
The 5th July 1335. 1919
