

S E C R E T.

(14)

G.T.-1327 A.

WAR CABINET.

4/Mesopotamia/14

Mesopotamia Commission Report.Memorandum by the Secretary of State for War.

The Army Council considered the extract from the decisions of the War Cabinet 175(2), the Judge Advocate-General being present throughout the proceedings.

They were of opinion that all the Officers in question should be given an opportunity of giving evidence on oath and calling witnesses in their defence in answer to those parts of the Report by which their conduct is impugned, and having been advised by the Judge Advocate-General that no charge should be preferred against any of them until a Court of Inquiry has been held, the Council decided to give orders forthwith for steps to be taken to hold such inquiry which will be in public unless at any particular stage the Court in the public interest otherwise determines. A civil legal assessor who should, if possible, be a Judge of the High Court, should be appointed to assist the Court, and either the Law Officers of the Crown or Counsel nominated by the Attorney-General should present the case to the Court.

As a preliminary to a Court Martial a "summary of evidence" must by law be taken, which would entail the presence of all witnesses, both for the prosecution and the defence. By means of a Court of Enquiry the cases can be more expeditiously dealt with, and it will give the officers concerned the opportunity of defending themselves against charges of incompetence.

In any case in which the evidence would justify charges, and such a course were thought proper, the officer concerned could be tried by Court Martial. For this purpose it would however be necessary to take legislative action to extend the provision

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provision of Section 161 of the Army Act, under which trial must be commenced within 3 years from the date of the offence. The Army Council is however advised that such a course is open to grave objection.

In any case in which it may be found that the evidence taken at the Court of Enquiry will not legally support any charge, the Council will consider whether any other action is required.

In the event of a Court Martial the preparation of the case will be entrusted to the Treasury Solicitor, who will also be requested to assist the Military Authorities in connection with the Court of Enquiry.

The expense of Counsel who may be employed during any of these proceedings by the officers whose conduct has been impugned should be charged against the public.

The Council propose to appoint to be the President of the Court of Enquiry General Sir Leslie Rundle, G.C.B.

DERBY.

7th July, 1917.