SEVENTY-FIFTH ANNIVERSARY OF
PROMULGATION OF HUNGARIAN
NATIONALITY ACT OF 1868

BY

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After having received the Royal Assent on December 6th., seventy-five years ago, on December 9th., 1868, the Hungarian Nationality Law was incorporated — being published that day in the official Law Journal — as “Act XLIV. of 1868: of the Equality of Rights of the Nationalities”. This Law comprising 29 articles made the civil and political rights of the non-Magyar nationalities — in the broadest sense — an organic part of the Hungarian Constitution at a period when there was not a single other State in nineteenth-century Europe which had done anything showing even approximatively as great a measure of liberality. So Hungary anticipated Western Europe by three-quarters of a century in respect of the solution of the nationality question. And this Nationality Act drafted seventy-five years ago has stood the test of time, — a circumstance documented by the fact that the measures of that Act expressing the spirit of understanding of the Magyars are still in force.

The principle propounded already in the title of the Act — that of equality of rights of the nationalities — is expressed by the Preamble in the following terms: — “According to the fundamental principles of the Constitution too all the citizens of Hungary form one nation politically, the indivisible, unitary Hungarian nation, of which every citizen of the country, irrespectively of his nationality, is a member of equal rank.” In other words, the Law is based in principle on the so-called political nation and regulates the rights of the several individuals belonging to that nation. The Law, therefore, does not grant rights
to the nationalities as collective bodies, but to the individual persons belonging to the nationalities. As interpreted by the Act of 1868, the decision of the question whether any Hungarian citizen belongs to a nationality depends upon that citizen's own subjective determination. That follows of necessity from the reference in the Preamble to the fundamental principles of the Constitution and from the principle of equality of rights.

The Nationality Law establishes the principle that "as a consequence of the political unity of the nation" Hungarian (Magyar) shall be the only official language of the legislature, though the laws are to be published in certified translations also in the languages of all other nationalities living in the country. While Article 1. makes Magyar also the official language of the Government of the country, the Act at the same time provides for the free use of the mother tongue of every nationality concerned — in addition to the official Hungarian language — in municipalities (county assemblies) and parishes. In the county assemblies, for instance, the Minutes may be drawn up — in addition to the official Hungarian language — also in that language which at least one-fifth of the members of the assembly desire to be used for the purpose. (Article 2.); in the county assemblies every one may speak in his own language (Article 3.); in all writings addressed by them to the State (central) Government municipalities (county and parish authorities) may use in parallel columns also that second language which is employed in drafting the Minutes of meetings, and in their correspondence with one another those authorities may use at their discretion either the State language or the other language figuring in the Minutes (Article 4.); in the conduct of local administrative business, should the use of the official language of the State involve any practical inconvenience to any of the municipalities (local authorities) or municipal (parish) official, the authority or official in question is entitled to employ any of the languages used in drafting the Minutes of meetings (Article 5.); the county officials shall within the jurisdiction of their own local authorities, in their intercourse with parishes, church communities, associations and individuals,
as far as possible employ the language of the respective parish, etc. (Article 6.); the Act further ensures the right of the free use of the mother tongues of the respective nationalities before courts of law (Articles 7—13.) and in Church matters (Articles 14—16.); it requires Government to provide that in State schools (Articles 17—19.) citizens of any nationality living together "in considerable numbers" shall be enabled as far as possible to obtain instruction in their own mother tongue up to the point where "higher academic culture" begins, providing at the same time for the establishment of chairs of language and literature in the secondary and higher education institutes and of literature in the universities for instruction in the languages of the several nationalities. In Articles 20—25 the Act ensures parish assemblies the right of choosing for themselves the language to be used in drafting Minutes and transacting administrative business, ordaining that Minutes are to be taken also in the language deemed necessary by one-fifth of the members entitled to vote; in their intercourse with the inhabitants parish officials are required to use the mother tongue of the inhabitants in question; in applications addressed to their own superior municipal (local government) authorities or to the organs of such authorities or to the State Government, persons may employ either the official language of the State or the language used in the conduct of their business, while in applications addressed to other municipal (local government) authorities or to the organs of the same they may at discretion use either the official State language or the language used in the Minutes of the respective local government authorities. Article 23. ensures every citizen of the country the right to submit their applications to his own parish authorities, to his Church authorities and to the local government authorities to whose jurisdiction he belongs, as well as to individual organs of the same and to the State Government, in his own mother tongue; entitling every citizen to address applications to other local government authorities or parishes or to individual organs of the same either in the official language of the State or in the language — or in one of the languages — used in the Minutes of the local
government or parish authorities in question. The Act (Article 24.) ensures all citizens entitled to speak the free use at parish and Church assemblies of their own mother tongues. In applications addressed to the State Government in which the mother tongue of the applicants is used, the original Hungarian text of the resolution passed must have annexed to it a certified translation of such resolution in the language in which the application in question is drafted. The Act (Article 26.) further ensures that all citizens, communes and Churches of all nationalities shall be free in the future — as they were in the past too — to found primary, secondary and higher education institutes and associations, the language to be used by such institutes and associations to be determined by those responsible for their foundation. Article 27. provides that the only criterion to be applied in filling offices shall in the future too be whether the candidates in question possess the necessary qualifications, and nationality shall not in the future either be regarded as an obstacle to the holding of any office or dignity in the country; indeed, the State Government shall provide that persons perfectly familiar with the languages required who are in other respects too fully qualified for the posts, shall as far as possible be chosen from among the members of the several nationalities to fill the offices of judges or administrative officials and in particular to function as Lord Lieutenants of counties.

The measures of the Hungarian Nationality Act described above in rough outline show the far-reaching and thoroughgoing character of the steps taken already three-quarters of a century ago by the Hungarian legislature for the purpose of satisfying the legitimate claims of the non-Magyar nationalities. They also prove the historical absurdity of the charge of "oppression during a thousand years" brought against Hungary. Not even the most censorious critics of Hungary's nationality policy can deny that the defects of our nationality policy prior to 1918 were not greater than those in evidence in the nationality policy of the other European States, or that the legal and actual situation of the non-Magyar nationalities of Hungary was considerably better than that of the nationalities
of certain other States. In economic respects, not only were the non-Magyar nationalities of Hungary not subjected to unequal treatment, but on the contrary — in very many cases — the Hungarian Government actually furthered the development of the manufacturing industry of nationality districts at the expense of pure Magyar regions. The citizens belonging to non-Magyar nationalities enjoyed complete security of life and personal liberty. And, when we compare the Hungarian Nationality Act of 1868 with the so-called minority provisions of the treaties of peace concluded after the Great War of 1914—18, the defective character of the latter as compared with the provisions of the Hungarian Act becomes strikingly manifest. And, when we add that the so-called “Successor States” aggrandized by the annexation of territories wrested from Hungary (Rumania, Yugoslavia, Czecho-Slovakia) failed to provide the Magyar inhabitants (minorities) incorporated in them even the minimum protection guaranteed them by the Minority Treaty, — those States having indeed subjected these minorities to the most humiliating treatment —, we cannot but admit the superiority in this respect too of Hungary’s nationality policy.

The Hungarian Government eliminated also the defects of the 1868. Act prejudicial to the non-Magyar nationalities of Hungary when, in the Order in Council No. 4800 M. E. ex 1923 possessing the binding force of a law, it drafted a modern edition of the Nationality Act of 1868. The said Order in Council contains a more precise drafting of all the provisions of the Nationality Act of 1868 prescribed as a consequence of changes ensuing in the interval in the judiciary and administrative organizations. Numerous new laws and Orders put into force subsequently to the issue of the said Order in Council contain measures involving an advance on the Nationality Act of 1868. In this connection we would refer to Act II. of 1924 (“Of Ensuring a Knowledge of Minority Languages in Public Offices”) and Order in Council No. 7500/M. E. ex 1924. — an Order possessing the binding force of law — dealing with “the Employment of Persons familiar with the Minority Languages to fill Vacancies in Public Offices”, which contains instructions
respecting the carrying into effect of the said Act. The legal provisions contained therein ordain that in the case of a court of law or of a State or local government office or authority within the jurisdiction of which at least one-fifth of the inhabitants belong to a linguistic minority, persons familiar with the minority language in question are to be employed. And every person employed in such places shall in any case be required within a period of two years to acquire a knowledge of the minority language in question; for otherwise he may be transferred or pensioned. In the future only such persons may be appointed to function in such areas as are sufficiently familiar with the language of the inhabitants to enable them to properly discharge their official duties. In Act V. of 1941 ("Of the Protection of Nationality Sensitiveness") the thousand-year-old Hungarian State provided a legal guarantee ensuring the nationality sensitiveness due to nationality consciousness concrete protection against any acts calculated to offend that sensitiveness. The Preamble to the Act notes that in placing nationality sensitiveness under the protection of the criminal law this Act is without precedent in the field of criminal legislation; for neither the older nor the more recent foreign legislation contains any provisions for the placing of nationality sensitiveness under the protection of criminal law.

The question of the language of instruction in nationality schools has most recently been adjusted by Order in Council No. 700/M. E. ex 1941 ("Of the Elementary Education of Children belonging to Linguistic Minorities") and by Order No. 25.370/V. K. M. ex 1941 of the Minister for Education issued to provide instructions for the carrying into effect of the Order in Council just referred to. In terms of these Orders, in those elementary schools in which there has previously been a "mixed" language of instruction (instruction being given equally in the mother tongue of the pupils and in the language of the State), Hungarian (Magyar) being taught as an ordinary subject, instruction is to be given in future exclusively in the respective mother tongue of the pupils. The work of re-organization and of the adjustment of the question of the language of
instruction respectively is already nearing completion. In evidence of the fact that Hungarian educational policy not only promises, but actually shows, a concrete understanding towards the non-Magyar nationalities, we would offer the following figures: — in altogether 2682 of the elementary schools functioning within the present territory of Hungary instruction is being given in the language of one or other of the non-Magyar nationalities of the country. Of the schools in which the language of instruction is not Magyar, 2099 are State, 32 parish (municipal), 365 Roman Catholic, 16 Greek Catholic (Uniate), 10 Reformed, 121 Evangelical, 17 Greek Oriental and 22 of sundry character (proprietary, private, etc.). In these schools there are 4955 teachers giving instruction in the mother-tongues of the pupils who are not Magyars, while there are 980 teachers giving instruction on the basis of the "mixed" system in both Hungarian and the respective nationality language. In addition there are 428 teachers functioning in schools in which the language of instruction is Hungarian (Magyar) who are engaged in teaching the language of one or other of the non-Magyar nationalities as an ordinary subject. In addition to the elementary schools already referred to, there are also 75 secondary schools, technical and professional schools of a secondary grade engaged in serving the needs of our non-Magyar nationalities. These include 16 "gymnasiums" (grammar-schools), 3 secondary commercial schools, 1 industrial secondary school, 10 teachers' training colleges, 34 "city" (board) schools and 11 apprentice schools.

We thought it necessary, in connection with the basic Nationality Law of Hungary, the Nationality Act of 1868 framed seventy-five years ago, to give also the above facts, if only because Hungary's nationality policy is still being subjected to a veritable flood of calumny and because the said facts are in themselves the best answer to the unfounded charges brought against us.