

“the governor of the place or whoever else shall have been desired by the merchant in his illness, is held responsible for the restitution of all property he (the deceased) had to anyone of the same nation to be found in Our provinces.

“Should it have happened, on the other hand, that this merchant should die suddenly without leaving behind him any heir, companion or servant whatsoever, so that the wishes of the deceased remain unknown, the governor of the place shall send those effects to the nearest place without Our borders where there is to be found any other merchant of the same nationality. And those who in Our realms, dominions and territories keep the Customs and tax-posts We prohibit expressly from taking anything from, or from meddling with and pursuing any merchant or other Christian, of whatever condition.

“For the rest, should any Christian give a loan to anyone of Our subjects of whatever condition or rank they may be, by these patents of Ours he or they shall have the right to have recourse to any governor or officer of justice, who shall be immediately obliged to obtain for them without any delay the payment with due satisfaction, but without taking from him or them any gift or remuneration, so that the prosecutors may be indemnified without any trouble. For Our decision and will is expressly such that all Christians be treated throughout Our realms and country with all kindness and gentleness, to their entire satisfaction, and without anyone henceforward presuming to impede them, or annoy them, or demand anything from them. And, notwithstanding that it be a custom in Our realm ordinarily observed and till now inviolably maintained that all Our patents or grants are renewed from year to year, still it is Our will that the present (order) remain in force with full effect evermore, without any infringement or alteration.”

Here again it is to be regretted that a Persian version (if it ever existed) is not extant: for this document of 1599, if genuinely representing the terms authorized by 'Abbas I, contains—unilaterally and voluntarily offers, in fact—the rudiments and the kernel of the future régime of extra-territorial jurisdiction<sup>1</sup> in later times admitted in treaties with foreign governments in respect of the immunity from pursuit by local courts, recovery of debts from local citizens, estates of deceased persons promised, a jurisdiction which was unilaterally denounced and withheld in 1928: while, on the other hand, such lavish privileges and sweeping provisions to the detriment of his own vassals raise justifiable doubts as to the substance of the Italian document having emanated from the Shah.

Evidently relations between Anthony Sherley and his Persian colleague were strained before their arrival in Prague. The former's brother, Robert, in a written representation of 1609<sup>2</sup> used the words:

“the king dispatched his ambassadors to urge His Holiness, the late Clement VIII, viz. Anthony Sherley, my brother, together with Husain 'Ali Baig, a Persian: and later he sent 'Ali Quli Muhrdar, also a Persian, to the late Paul V; and later me, too, Robert Sherley, each of us separately, so that disputes over precedence might not arise, as they did at that time between my brother and Husain 'Ali Baig.”

There is a complaint, signed by Sir Anthony Sherley himself, about this quarrel on record in Rome, and in it he refers to his Persian colleague:

“. . . but it having been put into his” (Husain 'Ali Baig's) “head that he can succeed in any claim he likes to make against me who am an Englishman, that is to say of a nation deservedly suspect to Your Holiness. . . .”<sup>3</sup>

<sup>1</sup> Technically, in international law and practice, the expression “Capitulatory” régime, or régime of “Capitulations” is not correct in the case of Persia, where it was not used in the specific treaties signed on the subject: it is alone applicable and admissible to the conditions that formerly existed in Turkey.

<sup>2</sup> Misc. Arm. II, 157.

<sup>3</sup> Fondo Borghese, Ser. III, n. 107, p. 192.