



SUPPLEMENT TO THE
CEYLON GOVERNMENT GAZETTE

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GOVERNMENT NOTIFICATIONS.

L. D.—

CF.D. 999/1/42.

THE texts of—

- (a) the United States of America (Visiting Forces) Order, 1942;
- (b) the United States of America (Visiting Forces) (Colonies, &c.) Order, 1942;
- (c) the United States of America (Visiting Forces) Act, 1942, and
- (d) the United States of America (Application of 5 and 6 Geo. 6 c. 31 to Colonies, &c.) Order, 1942,

are hereby published for general information

By His Excellency's command,

ROBERT H. DRAYTON,
 Chief Secretary.

Colombo, 3rd February, 1943.

STATUTORY RULES AND ORDERS.

1942 No. 966.

VISITING FORCES (U. S. A.).

THE UNITED STATES OF AMERICA (VISITING FORCES) ORDER, 1942.

At the Court at Buckingham Palace, the 22nd day of May, 1942.

Present

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL

Whereas it is desirable to define the relationship of the civil and service authorities and courts of the United Kingdom to the military and naval forces of the United States of America who are or may hereafter be present in the United Kingdom or on board any of His Majesty's ships or aircraft, and to facilitate the exercise in the United Kingdom or on board any such ship or aircraft of the jurisdiction conferred on the service courts and authorities of the United States of America by the law of that country:

Now, therefore, His Majesty, in exercise of the powers conferred on Him by sub-section (3) of section one of the Allied Forces Act, 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:

3 & 4 Geo 6
 c. 51

1. Sub-sections (2) to (5) of section one, section two, sub-sections (1) and (3) of section five, and section six of the Visiting Forces (British Commonwealth) Act, 1933, shall have effect, as set out in the Schedule to this Order with adaptations and modifications, in relation to the military and naval forces of the United States of America

Application
 of 23 Geo. 5.
 c. 6. to forces
 of U.S.A.

2.—(1) In this paragraph and in the Schedule to this Order, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

Interpretation.

“ American forces ” means the military and naval forces of the United States of America; and “ American force ” means any body, contingent or detachment of those forces;

“ Home forces ” means the naval, military and air forces of His Majesty raised in the United Kingdom, and “ home force ” means any body, contingent, or detachment of any of the home forces:

“ Service authorities ” means naval, military and (in relation to home forces) air force authorities ;

“ Service courts ” means naval, military and (in relation to home forces) air force courts, and includes a service court of inquiry, and any officer who is empowered to review the proceedings of a service court or to investigate charges or himself to dispose of charges, and the expression “ sentence ” shall be construed accordingly.

(2) Any power conferred by the provisions of the Visiting Forces (British Commonwealth) Act, 1933, as applied by this Order, to make an Order in Council or order shall be construed as including a power to revoke or vary the Order in Council or order.

(3) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. This Order may be cited as the United States of America (Visiting Forces) Order, 1942.

RUPERT B. HOWORTH

SCHEDULE.

THE PROVISIONS OF 23 GEO. 5. C. 6. APPLIED WITH ADAPTATIONS AND MODIFICATIONS.

1.—(1)

(2) The members of any service court of the United States of America exercising within the United Kingdom or on board any of His Majesty's ships or aircraft, in relation to members of the American forces, jurisdiction conferred by the law of the United States of America, and any witnesses appearing before any such court, shall enjoy the like immunities and privileges as are enjoyed by a service court exercising jurisdiction by virtue of the Naval Discipline Act, the Army Act or the Air Force Act, as the case may be, and by witnesses appearing before such a court.

(3) Where any sentence has, whether within or without the United Kingdom, been passed upon a member of the American forces by a service court of the United States of America, then for the purposes of any legal proceedings before a court of the United Kingdom the said service court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of the United States of America, and if executed according to the tenor of the sentence shall be deemed to have been lawfully executed ; and any member of the American forces who is detained in custody in pursuance of any such sentence, or pending the determination by such a service court as aforesaid of a charge brought against him, or pending any preliminary examination by the service authorities of the United States of America, shall for the purposes of any such proceedings as aforesaid be deemed to be in legal custody.

For the purposes of any such proceedings as aforesaid a certificate under the hand of the officer commanding an American force stating—

- (a) that the sentence specified in the certificate has been passed upon a person of the name and description so specified by a service court of the United States of America ; or
- (b) that a person of the name and description specified in the certificate is, or was at any time so specified, detained in custody in pursuance of any such sentence or pending any such determination or preliminary examination as aforesaid :

shall be conclusive evidence of the facts stated therein, and any document purporting to be such a certificate, and to be signed by the commanding officer, shall be received in evidence, and shall, unless the contrary is proved, be deemed to be a certificate so signed.

(4) No proceedings in respect of the pay, terms of service or discharge of a member of the American forces, shall be entertained by any court of the United Kingdom.

(5) For the purpose of enabling the service courts and service authorities of the United States of America to exercise more effectively within the United Kingdom or on board any of His Majesty's ships or aircraft their jurisdiction in relation to members of the American forces, a Secretary of State, the Admiralty, the Army Council or the Air Council, if so requested by the officer commanding an American force, or by the Government of the United States of America, may from time to time by general or special orders authorise the arrest and custody of members of the American forces alleged to have been guilty of offences punishable under the law of the United States of America, and the handing over of any such persons to the appropriate authorities of the American forces.

52 and 53
Vict. c. 63.
Short title.

Privileges and
proceedings of
Service Courts
of U.S.A.

2—(1) Any Government department, Minister of the Crown, or other person in the United Kingdom, may perform, at the request of the officer commanding an American force, any function in relation to that force and members thereof which that department, Minister, or person performs or could perform in relation to a home force of like nature to the American force, or in relation to members of such a force and, for the purpose of the exercise of any such function, any power exercisable by virtue of any enactment by the department, Minister or person in relation to a home force or members thereof shall be exercisable by him or them in relation to the American force and members thereof:

Provided that nothing in this subsection shall authorise any interference with the American force in matters relating to discipline, or to the internal administration of the force.

For the purposes of this subsection, the Admiralty, the Army Council and the Air Council shall be deemed to be Government departments.

(2) The following provisions shall have effect in any case where a member of an American force is sentenced by a service court of the United States of America to any form of imprisonment or detention:—

- (a) the member of the American force may, under the authority of a Secretary of State or the Admiralty, given at the request of the officer commanding the American force, be temporarily detained in custody in a prison or detention barrack in the United Kingdom, or may, under the like authority, be imprisoned or detained during the whole or any part of the term of his sentence in a prison or detention barrack in the United Kingdom;
- (b) the Admiralty, the Army Council or the Air Council may make arrangements with the service authorities of the United States of America with respect to the reception from those authorities of persons who are to be detained or imprisoned as aforesaid, and their return to those authorities, and with respect to the circumstances under which any such persons are to be released;
- (c) the provisions of any enactment, regulations, rules or orders relating to the treatment of prisoners serving sentences of imprisonment or penal servitude in prisons in the United Kingdom, and the manner in which such persons are to be dealt with in the event of their unsoundness of mind, shall apply to persons detained or imprisoned in prisons in the United Kingdom under this subsection in like manner as if—
 - (i) any such person who has been sentenced to detention or imprisonment for a term of less than three years were a person sentenced to imprisonment by a court of the United Kingdom;
 - (ii) any such person who has been sentenced to detention or imprisonment for a term of three years or more were a person sentenced to penal servitude by a court of the United Kingdom;
- (d) the provisions of any enactment, regulations, rules or orders relating to the treatment of members of the home forces detained in detention barracks in the United Kingdom, and the manner in which they are to be dealt with in the event of their unsoundness of mind, shall apply in like manner to persons detained in detention barracks in the United Kingdom under this subsection;
- (e) any costs incurred in the maintenance and return of, or otherwise in connection with, any person dealt with in accordance with the provisions of this subsection shall be defrayed in such manner as may, with the consent of the Treasury, be agreed between the Secretary of State or the Admiralty and the Government of the United States of America.

(3) Subject as hereinafter provided, any enactment (whether contained in the Naval Discipline Act, the Army Act, the Air Force Act or any other statute) which—

- (a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of, the home forces or any of them from the operation of any enactment; or
- (b) in virtue of a connection with the home forces or any of them, confers a privilege or immunity on any person, or
- (c) in virtue of such a connection, excepts any property, trade or business in whole or in part, from the operation of any enactment, or from any tax, rate, imposition, toll or charge; or
- (d) imposes upon any person or undertaking obligations in relation to the home forces, or any of them, or any member or service court thereof; or

Relations of
American
forces to the
civil power
and civilians.

(e) penalises misconduct by any person in relation to the home forces or any of them, or any member or service court thereof.

shall, with any necessary modifications, apply in relation to an American force as it would apply in relation to a home force of a like nature to the American force.

Provided that the provisions of the Naval Discipline Act, the Army Act and the Air Force Act relating to witnesses at service courts, shall apply in relation to service courts of the United States of America as if for the method of summoning witnesses there were substituted such method as may be prescribed by orders made by the Admiralty, the Army Council or the Air Council, and His Majesty may by Order in Council direct that any other enactment referred to in this subsection either shall not apply, or shall apply with such exceptions and subject to such adaptations or modifications as may be specified in the Order.

(4) An Order in Council under this section may apply either generally, or in relation to any particular American force, or in relation to any particular place.

(5) In this section the expression "enactment" includes any enactment of the Parliament of Northern Ireland, and references in subsection (2) of this section to a Secretary of State and to the Secretary of State shall, in relation to the detention or imprisonment of any person in a civil prison in Northern Ireland, be construed as references to the Ministry of Home Affairs for Northern Ireland.

Application of Act and of 3 & 4 Geo. 6 c. 51 to Colonies.

5.—(1) His Majesty may as regards any colony by Order in Council direct that the provisions of subsection (1) of section one of the Allied Forces Act, 1940, together with the provisions, as applied by this Order, of sections one and two of the Visiting Forces (British Commonwealth) Act, 1933, or such of those provisions as may be specified in the Order, shall, subject to such adaptations and modifications as may be so specified, apply in relation to American forces in that colony or any part thereof as they apply in relation to American forces in the United Kingdom.

An Order in Council under this subsection may apply any such provisions either generally or in relation to any particular American force.

(2)

(3) In this section the expression "colony" includes any territory which is under His Majesty's protection.

Application to mandated territories.

6. The last foregoing section shall apply in relation to any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom as if that territory were for the time being a colony.

STATUTORY RULES AND ORDERS

1942 No. 1576.

VISITING FORCES (U.S.A.).

THE UNITED STATES OF AMERICA (VISITING FORCES) (COLONIES, &C.) ORDER, 1942.

At the Court at Buckingham Palace, the 6th day of August, 1942.

Present.

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

3 & 4 Geo. 6. c. 51. 23 & 24 Geo. 5. c. 6.

Whereas by the United States of America (Visiting Forces) Order, 1942 (a) (hereinafter called "the United Kingdom Order") made in pursuance of subsection (3) of section one of the Allied Forces Act, 1940, it is provided that certain provisions of the Visiting Forces (British Commonwealth) Act, 1933 (hereinafter called "the Act of 1933") shall have effect, as therein set out with adaptations and modifications, in relation to the military and naval forces of the United States of America:

And whereas by sections five and six of the Act of 1933 as applied by the United Kingdom Order, His Majesty is empowered, as regards any colony or any territory under His Majesty's protection, including any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom, to direct by further Order in Council that the provisions of subsection (1) of section one of the Allied Forces Act, 1940, together with the provisions, as applied by the United Kingdom Order, of sections one and two of the Act of 1933 or such of these provisions as may be specified in such further Order in Council,

shall, subject to such adaptations and modifications as may be so specified, apply in relation to military and naval forces of the United States of America in that colony or territory or any part thereof as they apply in relation to such forces in the United Kingdom :

Now, therefore, His Majesty, in exercise of the said powers, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The provisions of subsection (1) of section one of the Allied Forces Act, 1940, and the provisions of sections one and two of the Act of 1933 as set out in the Schedule to the United Kingdom Order shall apply in relation to American forces in each territory as they apply in relation to American forces in the United Kingdom, subject to the adaptations and modifications specified in the Second Schedule to this Order :

Application of enactments to Colonies.

Provided that—

- (a) as regards the Colony of Jamaica and its dependencies, the said provisions shall apply only in relation to forces of the United States of America in the Cayman Islands, the Turks and Caicos Islands, the Morant Cays or the Pedro Cays : and
- (b) as regards the Colony of the Leeward Islands, the said provisions shall not apply in relation to forces of the United States of America in the island of Antigua.

2.—(1) In this Order and in the provisions mentioned in paragraph 1 of this Order as applied by this Order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—

Interpretation.

“Territory” means a territory mentioned in the First Schedule to this Order, and in the application of the said provisions under this Order to any territory “the territory” means that territory ;

“Governor” in relation to any territory, means the person administering the Government of the territory or, in the case of Zanzibar, the British Resident or the person lawfully discharging his functions ;

“American forces” means the military and naval forces of the United States of America ; and “American force” means any body, contingent or detachment of those forces ;

“Home forces” means the naval, military and air forces of His Majesty raised in the United Kingdom, and “home force” means any body, contingent, or detachment of any of the home forces ;

“Colonial forces” means, in relation to any territory any naval, military or air forces raised in the territory, including any police force or other body raised therein which, by virtue of any law in force in the territory, has become a naval, military or air force ; and “colonial force” includes any body, contingent or detachment of any colonial forces wherever serving ;

Provided that where any colonial forces or force raised in one territory shall be present in some other territory, such forces or force shall, for the purposes of this definition, be deemed to have been raised in that other territory ;

“Service authorities” means naval, military and (in relation to home forces and colonial forces) air force authorities ;

“Service courts” means naval, military and (in relation to home forces and colonial forces) air force courts, and includes a service court of inquiry, and any officer who is empowered to review the proceedings of a service court, or to investigate charges or himself to dispose of charges, and the expression “sentence” shall be construed accordingly.

(2) Any power conferred by the provisions mentioned in paragraph 1 of this Order, as applied by this Order, to make an Order in Council or an Order shall be construed as including a power to revoke or vary the Order in Council or Order.

(3) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

52 & 53 Vict. c 63.

Short title.

3. This Order may be cited as the United States of America (Visiting Forces) (Colonies, &c.) Order, 1942.

E. C. E. LEADBITTER.

FIRST SCHEDULE.

- Aden (Colony and Protectorate).
- Barbados.
- Basutoland.
- Bechuanaland Protectorate.
- British Honduras.
- Ceylon.
- Cyprus.

Falkland Islands.

Fiji.

Gambia (Colony and Protectorate)

Gibraltar.

Gold Coast :—

(a) Colony.

(b) Ashanti.

(c) Northern Territories.

(d) Togoland under British Mandate.

Hong Kong.

Jamaica.

Kenya (Colony and Protectorate).

Leeward Islands.

Malta.

Mauritius.

Nigeria :—

(a) Colony.

(b) Protectorate.

(c) Cameroons under British Mandate.

Northern Rhodesia.

Nyasaland Protectorate.

Palestine (excluding Trans-Jordan).

St. Helena.

Seychelles.

Sierra Leone (Colony and Protectorate).

Somaliland Protectorate.

Straits Settlements.

Swaziland.

Tanganyika Territory

Uganda Protectorate.

Western Pacific :—

(a) British Solomon Islands Protectorate.

(b) Gilbert and Ellice Islands Colony.

(c) Pitcairn Island.

(d) Any other colony, or territory under His Majesty's protection, in or in relation to which jurisdiction may lawfully be exercised under the Pacific Order in Council, 1893.

Windward Islands (other than St. Lucia) :—

Dominica.

Grenada.

St. Vincent.

Zanzibar Protectorate.

Reference in this Schedule to any territory of which there are dependencies shall be construed as including a reference to such dependencies.

SECOND SCHEDULE.

ADAPTATIONS AND MODIFICATIONS.

A. Section 1 (1) of the *Allied Forces Act, 1940*.

The words "the territory" shall be substituted for the words "the United Kingdom" in both places in which they occur.

B. Sections 1 to 2 of the *Visiting Forces (British Commonwealth), Act, 1933*, as applied by the *United States of America (Visiting Forces) Order, 1942*

1. The words "the territory" shall be substituted for the words "the United Kingdom" wherever they occur.

2. All references to home forces or a home force shall be construed as including references to colonial forces or a colonial force, as the case may be.

3. In subsection (5) of section one the words "the Governor" shall be substituted for the words "a Secretary of State, the Admiralty, the Army Council, or the Air Council."

4. In subsection (1) of section two.

(a) the words "or any officer of the Crown or any person" shall be substituted for the words "Minister of the Crown, or other person."

(b) the word "officer" shall be substituted for the word "Minister" in the second and third places in which it occurs and

(c) the following shall be substituted for the last paragraph :—

"In this subsection 'Government Department' means a Department of the Government of the territory, and also the Admiralty, the Army Council and the Air Council."

5. The following subsection shall be substituted for subsection (2) of section 2.—

“(2) If the Governor by Order so provides, members of an American force if sentenced by a service court of the United States of America to any form of imprisonment or detention may, under the authority of such persons as may be specified in the Order, given at the request of the officer commanding the American force, be temporarily detained in custody in prisons or detention barracks in the territory, or may, under the like authority, be imprisoned or detained during the whole or any part of the term of their sentences in prisons or detention barracks in the territory, and the Governor may by the same or a subsequent Order make provision with respect to any of the following matters, that is to say, the reception of such persons from, and their return to, the service authorities of the United States of America, their treatment while in such custody, or while so imprisoned or detained, the circumstances under which they are to be released, and the manner in which they are to be dealt with in the event of their unsoundness of mind while in such custody, or while so imprisoned or detained.

Any costs incurred in the maintenance and the return of, or otherwise in connection with, any person dealt with in accordance with the provisions of this subsection shall be defrayed in such manner as may be agreed between the Governor and the Government of the United States of America.”

6. The proviso to subsection (3) of section two shall, in so far as it relates to enactments being statutes or parts of statutes made in the territory, have effect as if the words “the Governor may by Order” were substituted for the words “His Majesty may by Order in Council.”

7. In subsection (4) of section two the words “or Order” shall be inserted between the words “Order in Council” and “under.”

8. Subsection (5) of section two shall be omitted

UNITED STATES OF AMERICA (VISITING FORCES) ACT, 1942

5 & 6 Geo. 6.

CHAPTER 31.

An Act to give effect to an agreement recorded in Notes exchanged between His Majesty's Government in the United Kingdom and the Government of the United States of America, relating to jurisdiction over members of the military and naval forces of the United States of America.

[6th August 1942.]

WHEREAS His Majesty in exercise of the powers conferred on Him by subsection (3) of section one of the Allied Forces Act, 1940, and of all other powers enabling Him in that behalf, has been pleased, by Order in Council, to make provision defining the relationship of the authorities and courts of the United Kingdom to the military and naval forces of the United States of America who are or may hereafter be present in the United Kingdom or on board any of His Majesty's ships or aircraft, and facilitating the exercise in the United Kingdom or on board any such ship or aircraft of the jurisdiction conferred on the service courts and authorities of the United States of America by the law of that country:

3 & 4 Geo. 6.
c. 51.

And whereas the Notes relating to jurisdiction over members of the said forces set out in the Schedule to this Act have been exchanged between His Majesty's Government in the United Kingdom and the Government of the United States of America.

And whereas it is expedient to give effect to the agreement recorded by the said Notes:

Now, therefore, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows.—

1.—(1) Subject as hereinafter provided, no criminal proceedings shall be prosecuted in the United Kingdom before any court of the United Kingdom against a member of the military or naval forces of the United States of America.

Provided that upon representations made to him on behalf of the Government of the United States of America with respect to any particular case, a Secretary of State may by order direct that the provisions of this subsection shall not apply in that case.

(2) The foregoing subsection shall not affect any powers of arrest, search, entry, or custody, exercisable under British law with respect to offences committed or believed to have been committed against that law, but where a person against whom proceedings cannot, by virtue of that subsection, be

Criminal proceedings in courts of the United Kingdom not to be taken against members of forces of the United States of America.

prosecuted before a court of the United Kingdom is in the custody of any authority of the United Kingdom, he shall, in accordance with such general or special directions as may be given by or under the authority of a Secretary of State, the Admiralty, or the Minister for Home Affairs in Northern Ireland, for the purpose of giving effect to any arrangements made by His Majesty's Government in the United Kingdom with the Government of the United States of America, be delivered into the custody of such authority of the United States of America as may be provided by the directions, being an authority appearing to the Secretary of State, the Admiralty, or the Minister, as the case may be, to be appropriate having regard to the provisions of any Order in Council for the time being in force under the Act herebefore recited and of any orders made thereunder.

(3) Nothing in this Act shall render any person subject to any liability whether civil or criminal in respect of anything done by him to any member of the said forces in good faith and without knowledge that he was a member of those forces

Membership of forces of the United States of America

2.—(1) For the purposes of this Act and of the Allied Forces Act, 1940, in its application to the military and naval forces of the United States of America, all persons who are by the law of the United States of America for the time being subject to the military or naval law of that country shall be deemed to be members of the said forces.

Provided that no person employed in connection with the said forces, not being a citizen or national of the United States of America, shall be deemed to be a member of those forces unless he entered into that employment outside the United Kingdom.

(2) For the purposes of any proceedings in any court of the United Kingdom, a certificate issued by or on behalf of such authority as may be appointed for the purpose by the Government of the United States of America stating that a person of the name and description specified in the certificate is, or was at a time so specified, subject to the military or naval law of the United States of America, shall be conclusive evidence of that fact.

(3) For the purposes of any proceedings in any court of the United Kingdom in which the question is raised whether a party to the proceedings is, or was at any time, a member of the military or naval forces of the United States of America, any such certificate as aforesaid relating to a person bearing the name in which that party is charged or appears in the proceedings shall, unless the contrary is proved, be deemed to relate to that party.

(4) Any document purporting to be a certificate issued for the purposes of this section, and to be signed by or on behalf of an authority described as appointed by the Government of the United States of America for the purposes of this section, shall be received in evidence, and shall, unless the contrary is proved, be deemed to be a certificate issued by or on behalf of an authority so appointed.

Application of Act to Colonies

3.—(1) His Majesty may by Order in Council direct that the foregoing provisions of this Act shall, subject to such adaptations and modifications as may be specified in the Order, have effect in any colony or in any British protectorate or in any territory in respect of which a mandate on behalf of the League of Nations is being exercised by His Majesty's Government in the United Kingdom, in like manner as they have effect in the United Kingdom.

(2) An Order in Council under this section may be revoked or varied by a subsequent Order in Council.

Short title

4. This Act may be cited as the United States of America (Visiting Forces) Act, 1942

SCHEDULE.

NOTES EXCHANGED BETWEEN HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

No. W. 10338/13/64

FOREIGN OFFICE, S.W.1.
27th July, 1942

YOUR EXCELLENCY,

Following the discussions which have taken place between representatives of our two Governments, His Majesty's Government in the United Kingdom are prepared, subject to the necessary Parliamentary authority, to give effect to the desire of the Government of the United States that the Service courts and authorities of the United States Forces should, during the continuance of the conflict against our common enemies, exercise exclusive jurisdiction in respect of criminal offences which may be committed in the United Kingdom by members of those Forces, and they are ready to introduce in Parliament the necessary legislation for this purpose.

2. It is appreciated, however, that cases may arise where for particular reasons the American authorities may prefer that their courts should not exercise the above jurisdiction, and His Majesty's Government would

accordingly propose that in any case in which a written communication to that effect is received from the Diplomatic Representative of the United States it should be open to the appropriate British authority to restore the jurisdiction of the courts of the United Kingdom to deal with that case.

3 In view of the very considerable departure which the above arrangements will involve from the traditional system and practice of the United Kingdom there are certain points upon which His Majesty's Government consider it indispensable first to reach an understanding with the United States Government. I have accordingly the honour to invite Your Excellency to be so good as to lay the following enquiries and observations before your Government and to inform me of their attitude thereupon.

4 In the first place, the readiness of His Majesty's Government in the United Kingdom to agree to the exercise by United States Service courts of exclusive jurisdiction in respect of offences by members of their Forces is based upon the assumption that the United States Service authorities and courts concerned will be able and willing to try and, on conviction, to punish all criminal offences which members of the United States Forces may be alleged on sufficient evidence to have committed in the United Kingdom, and that the United States authorities are agreeable in principle to investigate and deal with appropriately any alleged criminal offences committed by members of the United States Forces in the United Kingdom which may be brought to their notice by the competent British authorities, or which the American authorities may find to have taken place.

5 Secondly, His Majesty's Government will be glad if Your Excellency will confirm their understanding that the trial of any member of the United States Forces for an offence against a member of the civilian population would be in open Court (except where security considerations forbade this) and would be arranged to take place promptly in the United Kingdom and within a reasonable distance from the spot where the offence was alleged to have been committed, so that witnesses should not be required to travel great distances to attend the hearing.

6 Thirdly, His Majesty's Government propose that no member of the United States Forces should be tried in the United Kingdom by a Service Court of the United States of America for an offence committed by him before 7th December, 1941.

7 Fourthly, while His Majesty's Government in the United Kingdom would not wish to make the arrangements in regard to jurisdiction over members of the United States Forces in this country dependent upon a formal grant of reciprocity in respect of United Kingdom Forces in the territory of the United States of America, I feel that Your Excellency will appreciate that the considerations which have convinced His Majesty's Government in the United Kingdom that the interests of our common cause would be best served by the arrangements which they are prepared to make as regards jurisdiction over American forces in the United Kingdom would be equally applicable in the case of British forces which in the course of the war against our common enemies may be stationed in territory under American jurisdiction. It would accordingly be very agreeable to His Majesty's Government in the United Kingdom if Your Excellency were authorised to inform me that in that case the Government of the United States of America will be ready to take all steps in their power to ensure to the British forces concerned a position corresponding to that of American forces in the United Kingdom under the arrangements which His Majesty's Government are willing to make. The considerations indicated in paragraph 2 above would naturally apply and His Majesty's Government would be prepared to authorise the Diplomatic Representative of His Majesty in the United States to notify the competent American authorities in cases where the appropriate British authorities preferred not to exercise jurisdiction.

8 Fifthly, the proposal to ensure to the United States Service courts and authorities by legislation the exclusive exercise of jurisdiction in respect of criminal offences by members of the United States Forces in the United Kingdom is based upon the further assumption that satisfactory machinery will be devised between the competent American and British authorities for such mutual assistance as may be required in making investigations and collecting evidence in respect of offences which members of the United States Forces are alleged to have committed, or in which they are alleged to be concerned. His Majesty's Government have no doubt that the United States Government will agree that it would as a general rule be desirable that such preliminary action should be taken by the British authorities, on behalf of the American authorities, where the witnesses or other persons from whom it is desired to take statements are not members of the United States Forces. Conversely, His Majesty's Government trust that they may count upon the assistance of the American authorities in connexion with the prosecution before British courts of persons who are not members of the United States Forces where the evidence of any member of these Forces is required or where

the assistance of the American authorities in the investigation of the case (including the taking of statements from the American Forces) may be needed.

9. His Majesty's Government in the United Kingdom are prepared to extend the proposed legislation where necessary to British Colonies and Dependencies under their authority, other than those British territories in which are situated the United States Military and Naval Bases leased in pursuance of the Agreement of 27th March, 1941, where the question of jurisdiction is already regulated by that Agreement. I accordingly propose that the foregoing paragraphs of this note, and your eventual reply, should be regarded as extending also to the arrangements to be made in the British Colonies and Dependencies to which the proposed legislation may be applied.

10. Finally, His Majesty's Government propose that the foregoing arrangements should operate during the conduct of the conflict against our common enemies and until six months (or such other period as may be mutually agreed upon) after the final termination of such conflict and the restoration of a state of peace.

11. If the foregoing arrangements are acceptable to the United States Government, I have the honour to propose that the present note and Your Excellency's reply be regarded as constituting an agreement between the two Governments to which effect shall be given as from the date on which the legislation to which I have already referred takes effect.

I have the honour to be,

With the highest consideration,

Your Excellency's obedient servant,

ANTHONY EDEN.

His Excellency
The Honourable
JOHN G. WINANT,

EMBASSY OF THE
UNITED STATES OF AMERICA,
London.

No. 1919

27th July, 1942.

SIR,

I have the honor to refer to your note of July 27, 1942, in which you inform me that His Majesty's Government in the United Kingdom is prepared, subject to the necessary Parliamentary authority, to give effect to the desire of the Government of the United States that American authorities have exclusive jurisdiction in respect to criminal offences which may be committed in the United Kingdom by members of the American Forces. I now have the honor to inform you that my Government agrees to the several understandings which were raised in your note.

In order to avoid all doubt, I wish to point out that the Military and Naval authorities will assume the responsibility to try and on conviction to punish all offences which members of the American Forces may be alleged on sufficient evidence to have committed in the United Kingdom.

It is my understanding that the present exchange of notes is regarded as constituting an agreement between the two Governments to which effect shall be given as from the date on which the necessary Parliamentary authority takes effect.

Accept, Sir, the renewed assurance of my highest consideration.

JOHN G. WINANT.

The Right Honourable
Anthony Eden, M.C., M.P.

STATUTORY RULES AND ORDERS.

1942 No. 2410.

VISITING FORCES (U.S.A.)

THE UNITED STATES OF AMERICA (APPLICATION OF 5 AND 6 GEO.
6. c. 31 TO COLONIES, ETC.) ORDER, 1942.

At the Court at Buckingham Palace, the 24th day of November, 1942.

Present,

THE KING'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas by section three of the United States of America (Visiting Forces) Act, 1942 (hereinafter referred to as "the Act"), it is provided that His Majesty may by Order in Council direct that the provisions of sections one and two of the Act shall, subject to such adaptations and modifications as may be specified in the Order, have effect in any colony or in any British protectorate or in any territory in respect of which a mandate on behalf of the League of

Nations is being exercised by His Majesty's Government in the United Kingdom, in like manner as they have effect in the United Kingdom :

Now, therefore, His Majesty, in the exercise of the powers conferred on Him by the said section three and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. The provisions of sections one and two of the Act shall have effect in each territory as set out with adaptations and modifications in the Second Schedule to this Order :—

Provided that—

(a) as regards the Colony of Jamaica and its dependencies, the said provisions shall apply only in relation to forces of the United States of America in the Cayman Islands, the Turks and Caicos Islands, the Morant Cays or the Pedro Cays, and

(b) as regards the Colony of the Leeward Islands, the said provisions shall not apply in relation to forces of the United States of America in the Island of Antigua.

Application
of Act to
colonies, etc.

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say —

Interpretation.

“ territory ” means a territory mentioned in the First Schedule to this Order, and in the application of the provisions of the Act as set out in the Second Schedule to this Order to any territory “ the territory ” means that territory ;

“ Governor ” in relation to any territory, means the person administering the Government of the territory or, in the case of Zanzibar, the British Resident or the person lawfully discharging his functions.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

52 & 53 Vict.
c. 63.

3. This Order may be cited as the United States of America (Application of 5 and 6 Geo. 6. c. 31 to Colonies, etc.) Order, 1942.

Short title.

F. C. E. Leadbitter.

FIRST SCHEDULE.

Aden (Colony and Protectorate).
Barbados.
Basutoland.
Bechuanaland Protectorate.
British Honduras.
Ceylon.
Cyprus.
Falkland Islands.
Fiji.
Gambia (Colony and Protectorate).
Gibraltar.
Gold Coast :—
 (a) Colony.
 (b) Ashanti
 (c) Northern Territories
 (d) Togoland under British Mandate.
Hong Kong.
Jamaica.
Kenya (Colony and Protectorate).
Leeward Islands.
Malta.
Mauritius.
Nigeria :—
 (a) Colony.
 (b) Protectorate.
 (c) Cameroons under British Mandate.
Northern Rhodesia
Nyasaland Protectorate.
Palestine (excluding Trans-Jordan).
St. Helena.
Seychelles.
Sierra Leone (Colony and Protectorate).
Somaliland Protectorate.
Straits Settlements.
Swaziland.
Tanganyika Territory.
Uganda Protectorate.
Western Pacific :—
 (a) British Solomon Islands Protectorate.
 (b) Gilbert and Ellice Islands Colony.

(c) Pitcairn Island.

(d) Any other colony, or territory under His Majesty's protection, in or in relation to which jurisdiction may lawfully be exercised under the Pacific Order in Council, 1893.

Windwards Islands (other than St. Lucia) —

- Dominica.
- Grenada
- St. Vincent
- Zanzibar Protectorate.

Reference in this Schedule to any territory of which there are dependencies shall be construed as including a reference to such dependencies.

SECOND SCHEDULE.

The Provisions of the United States of America (Visiting Forces) Act, 1942, applied with adaptations and modifications

Criminal proceedings in courts of the territory not to be taken against members of forces of the United States of America.

1—(1) Subject as hereinafter provided, no criminal proceedings shall be prosecuted in the territory before any court of the territory against a member of the military or naval forces of the United States of America

Provided that upon representations made to him on behalf of the Government of the United States of America with respect to any particular case, the Governor may by order direct that the provisions of this subsection shall not apply in that case.

(2) The foregoing subsection shall not affect any powers of arrest, search, entry, or custody, exercisable under the law of the territory with respect to offences committed or believed to have been committed against that law, but where a person against whom proceedings cannot, by virtue of that subsection, be prosecuted before a court of the territory is in the custody of any authority of the territory, he shall, in accordance with such general or special directions as may be given by or under the authority of the Governor, for the purpose of giving effect to any arrangements made either by His Majesty's Government in the United Kingdom with the Government of the United States of America or by the Governor with the authority designated for the purpose by the Government of the United States of America, be delivered into the custody of such authority of the United States of America as may be provided by the directions, being an authority appearing to the Governor to be appropriate having regard to the provisions of any Order in Council for the time being in force under the Allied Forces Act, 1940, and of any orders made thereunder.

(3) Nothing in this Act shall render any person subject to any liability whether civil or criminal in respect of anything done by him to any member of the said forces in good faith and without knowledge that he was a member of those forces.

Membership of forces of the United States of America.

2.—(1) For the purposes of this Act and of the Allied Forces Act, 1940, in its application to the military and naval forces of the United States of America in the territory, all persons who are by the law of the United States of America for the time being subject to the military or naval law of that country shall be deemed to be members of the said forces :

Provided that no person employed in connection with the said forces, not being a citizen or national of the United States of America, shall be deemed to be a member of those forces unless he entered into that employment outside the United Kingdom and not within any territory to which this Act is applied by Order in Council.

(2) For the purposes of any proceedings in any court of the territory, a certificate issued by or on behalf of such authority as may be appointed for the purpose by the Government of the United States of America stating that a person of the name and description specified in the certificate is, or was at a time so specified, subject to the military or naval law of the United States of America, shall be conclusive evidence of that fact.

(3) For the purpose of any proceedings in any court of the territory in which the question is raised whether a party to the proceedings is, or was at any time, a member of the military or naval forces of the United States of America, any such certificate as aforesaid relating to a person bearing the name in which that party is charged or appears in the proceedings shall, unless the contrary is proved, be deemed to relate to that party.

(4) Any document purporting to be a certificate issued for the purposes of this section, and to be signed by or on behalf of an authority described as appointed by the Government of the United States of America for the purposes of this section, shall be received in evidence, and shall, unless the contrary is proved, be deemed to be a certificate issued by or on behalf of an authority so appointed.