## 5. KUWAIT

# The Kuwait Order in Council, 1949

## 1949 No. 593

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| *Made* - - - - | *29th March*, 1949 |
| *Laid before Parliament* | *30th March*, 1949 |
| *Coming into Operation* | *12th April*, 1949 |

At the Court at Buckingham Palace, the 29th day of March, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by Treaty, capitulation, grant, usage, sufferance, and other lawful means His Majesty the King has jurisdiction within the territories of the Sheikh of Kuwait:

And Whereas provision was made for the exercise of such jurisdiction by the Kuwait Order in Council, 1935(a);

And Whereas it is expedient to repeal the said Order in Council and make further provision for the existence of the said jurisdiction;

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by the Foreign Jurisdiction Acts, 1890 and 1913(b), or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

### PART I.—PRELIMINARY AND GENERAL

**1.** This Order may be cited as the Kuwait Order in Council, 1949.

**2.** The limits of this Order are Kuwait and the coast and islands of the Persian Gulf, being within the territories of the ruling Sheikh of Kuwait, including the territorial waters of Kuwait adjacent to the said coast and islands, and all other territories, islands, and islets which may be included in the territories and be the possessions of the ruling Sheikh of Kuwait together with their territorial waters.

**3.** This Order is divided into parts as follows:—


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(a) S.R. & O. 1935 (No. 283) p. 490.
(b) 53 & 54 Vict. c. 37 and 3 & 4 Geo. 5. c. 16.

**4.** In the construction of this Order and of any Rules, Regulations or Orders made thereunder the following words and expressions have the meaning hereby assigned to them, unless there be something in the subject or context repugnant thereto, that is to say:—

"Administration" means letters of administration, including the same with will annexed, or granted for special or limited purposes, or limited in duration.

"British aircraft" means an aircraft registered in any part of His Majesty's dominions, protectorates or protected states, other than Kuwait, Bahrein and Qatar, and the Trucial States or in any mandated territory or trust territory.

"British protected person" means a person other than a corporation properly enjoying His Majesty's protection in the Trucial States but does not include—

(i) a person who has the status of a British subject under the British Nationality Act, 1948;

(ii) foreigners subject to this Order under Article 8 (1) (*a*) (ii) thereof;

(iii) Kuwait subjects who are persons subject to this Order under Article 8 (1) (*a*) (iii) thereof.

"British ship" means a merchant ship, being a British ship within the meaning of the Merchant Shipping Act, 1894(**a**), and, except where the context otherwise requires, includes a ship belonging to any British subject as herein defined.

"British subject" means and includes—

(1) any person who has the status of a British subject under the British Nationality Act, 1948;

(2) British protected persons;

(3) any corporation incorporated under the law of any part of His Majesty's dominions, protectorates or protected states or of any mandated territory or trust territory.

"Court of the Political Agent" means the Court established by Article 16.

"Chief Court" means the Court established by Article 16.

"Full Court" means the Court established by Article 16.

"The Court" means the Court of the Political Agent or the Chief Court or the Full Court.

"Foreigner" means any person (including a corporation) not a British or Kuwait subject.

"Imprisonment" means imprisonment of either description as defined in the Indian Penal Code.

"Kuwait" includes all places and waters within the limits of this Order.

"Kuwait subject" means a subject of the Sheikh of Kuwait and any person, not being a British subject, who is the national of any other Moslem state.

"Mandated territory" means a territory administered by the government of any part of His Majesty's dominions in accordance with a mandate from the League of Nations.

"Month" means calendar month.

"Oath" or "Affidavit" includes affirmation or declaration.

"Offence" means any act or omission made punishable by any law for the time being in force.

(a) 57 & 58 Vict. c. 60.

"Person" includes corporation.

"Political Agent" means His Majesty's Agent at Kuwait, appointed by the Secretary of State including a person acting temporarily with the approval of the Secretary of State for such Political Agent or his representative.

"Political Agency" means the Office, Residence, Court or other appointed place of business of the Political Agent.

"Political Resident" means His Majesty's Political Resident in the Persian Gulf, including a person acting temporarily with the approval of the Secretary of State for such Political Resident.

"Qazi" means any official Qazi appointed by the Sheikh of Kuwait and accepted by the Political Agent.

"Rules of Court" means rules of Court made under the provisions of this Order.

"Secretary of State" means one of His Majesty's Principal Secretaries of State.

"Sheikh of Kuwait," hereinafter called "The Sheikh," means the ruling Sheikh of Kuwait, or his duly accredited representative for the time being.

"Ship" includes any vessel used in navigation, however propelled, with her tackle, furniture, and apparel, and any boat or other craft.

"Treaty" includes any capitulations, convention, agreement or arrangement made by or on behalf of His Majesty with any State or Government, King, Chief, people, or tribe, or to the benefits of which His Majesty has succeeded, whether the Sheikh of Kuwait is or is not a party thereto.

"Trust territory" means a territory administered by the government of any part of His Majesty's dominions under the trusteeship system of the United Nations.

"Will" means will, codicil, or other testamentary instrument.

The expressions "person to whom this Order applies" and "person subject to this Order" mean the persons referred to in paragraph (*a*) (i) (ii) and (iii) of paragraph (1) of Article 8.

Expressions used in any enactments applied to Kuwait shall, unless a contrary intention appears, have the same respective meanings as in this Order.

**5.**—(1) In this Order words importing the plural or the singular may be construed as referring to one person or thing or to more than one person or thing, and words importing the masculine as referring to the feminine, as the case may require.

(2) Where this Order confers any power or imposes any duty, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(3) Where this Order confers a power, or imposes a duty on, or with respect to, a holder of an office as such, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by, or with respect to, the holder for the time being of the office or the person temporarily acting for the holder.

(4) Where this Order confers a power to make any rules, regulations, or orders, the power shall, unless a contrary intention appears, be construed as including a power exercisable in the like manner and subject to the like consent and conditions, if any, to rescind, revoke, vary or amend the rules, regulations or orders.

(5) This Article shall apply to the construction of any regulations, rules, or orders made under this Order, unless a contrary intention appears.

**6.** Where this Order refers to any specified Act or Acts of Parliament, such reference shall, unless a contrary intention appears, be deemed to include any Act or Acts amending or substituted for the same. In the case of references to enactments of the Indian Legislature, the reference shall be to enactments in force on 14th August, 1947.

**7.** In the event of there being no Political Agent (including any person acting temporarily on his behalf under Article 5 (3)) available, all and every the powers, authorities, and immunities by this Order granted to him shall, until His Majesty's further pleasure is signified through the Secretary of State, be vested in the Political Resident.

**8.**—(1) The powers conferred by this Order shall extend to the persons and matters following, in so far as by treaty, grant, usage, sufferance, or other lawful means, His Majesty has jurisdiction in relation to such persons, matters, and things, that is to say:—

(*a*) (i) British subjects within the limits of this Order;

(ii) Foreigners within the limits of this Order.

(iii) Kuwait subjects registered in the Political Agency as being in the regular service of British subjects or foreigners; with the proviso that all cases wherein such Kuwait subjects are concerned shall be dealt with in accordance with the provisions of Part VI of this Order.

(*b*) The property and all personal or proprietary rights and liabilities within the said limits of all British subjects and of foreigners; and of Kuwait subjects within sub-paragraph (*a*) (iii) above whether such persons are themselves within or without the limits of this Order.

(*c*) British ships and ships belonging to foreigners with their boats, and the persons and property on board thereof, or belonging thereto, being within the limits of this Order; provided that jurisdiction over foreign ships shall not be exercised otherwise than according to the practice followed in the exercise of such jurisdiction by the High Court of Judicature at Bombay on 14th August, 1947.

(*d*) British aircraft and aircraft belonging to foreigners, being within the limits of this Order.

(*e*) British subjects outside the limits of this Order on whom a writ of summons or other process may be served in accordance with Rules of Court.

(2) If a question arises whether any place is within the limits of this Order or whether any person is a British protected person or a foreigner as defined in this Order, such question may be referred by the Court to the Political Resident, and a certificate under his hand and seal shall be conclusive on the question, and judicial notice shall be taken thereof.

**9.** All His Majesty's jurisdiction exercisable within the limits of this Order for the hearing and determination of criminal and civil matters, or for the maintenance of order or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, so far as this Order extends and applies.

**10.** Every judge and officer of the Courts established under this Order shall, as far as there is proper opportunity, promote reconciliation and encourage and facilitate the settlement in an amicable way, and without recourse to litigation, of matters in difference between persons subject to this Order, or between persons subject to this Order and persons within the limits of this Order who are not subject to this Order.

PART II.—LAW TO BE APPLIED.

**11.**—(1) Subject to the other provisions of this Order His Majesty's criminal and civil jurisdiction in Kuwait shall, so far as circumstances admit, be exercised on the principles of, and in conformity with, the enactments applicable as hereinafter mentioned of the Indian Legislature and of the Bombay Legislature, and in accordance with the powers vested on 14th August, 1947, in the Courts in the province of Bombay beyond the limits of the ordinary original jurisdiction of the High Court of Judicature at Bombay, and with the practice and procedure observed by and before those Courts at that date, according to their respective jurisdiction and authority, and so far as such enactments, powers, practice and procedure are inapplicable shall be exercised in accordance with justice, equity and good conscience.

(2) The enactments mentioned in the schedule to this Order shall as from the date of the commencement of this Order apply to all persons subject to this Order as they applied on 14th August, 1947, in the province of Bombay, but subject to the following adaptations and modifications:—

(i) All references in the said enactments to "British India" or any part thereof shall, except where the context otherwise requires, be construed as references to the limits of this Order and all references therein to the "Central Government" and the "Provincial Government" shall, except as otherwise provided or where the context otherwise requires, be construed as references to the Secretary of State and Political Resident respectively.

(ii) For the purpose of facilitating the application of the said enactments, the Political Resident may, by order in writing, direct by what officers any power conferred by the said enactments on authorities other than the Central Government and the Provincial Government shall be exercisable.

(3) Any other enactments of the Indian Legislature or of the Bombay Legislature in force in the province of Bombay on 14th August, 1947, may be applied to Kuwait by King's Regulations under Article 85 of this Order.

(4) The Court may construe any enactments in force in Kuwait, under the provisions of this Article, with such alterations not affecting the substance as may be necessary or proper to adapt the same to the matter before the Court.

**12.**—(1) The following enactments shall apply to Kuwait as if it were a British Colony or Possession but subject to the provisions of this Order and to the exceptions, adaptations, and modifications specified in paragraph (2) of this Article and in Article 23 below:—

(i) The Admiralty Offences (Colonial) Acts, 1849 and 1860(**a**).

(ii) The Foreign Tribunals Evidence Act, 1856(**b**).

(iii) The Evidence by Commission Acts, 1859 and 1885(**c**).

(iv) The British Law Ascertainment Act, 1859(**d**).

(v) The Foreign Law Ascertainment Act, 1861(**e**).

(vi) The Fugitive Offenders Act, 1881(**f**).

(vii) The Merchant Shipping Act, 1894, Part XIII.

(a) 12 & 13 Vict. c. 96 and 23 & 24 Vict. c. 122.
(b) 19 & 20 Vict. c. 113.
(c) 22 Vict. c. 20 and 48 & 49 Vict. c. 74.
(d) 22 & 23 Vict. c. 63.
(e) 24 & 25 Vict. c. 11.
(f) 44 & 45 Vict. c. 69.

(2) (i) References in any of the said Acts to the Governor of a Colony or British Possession, to a Superior Court or Supreme Court, and to a Magistrate or Justice of the Peace of a Colony or British Possession shall be construed respectively as references to the Political Resident, the Full Court, the Chief Court and the Court of the Political Agent.

(ii) With respect to the Fugitive Offenders Act, 1881:—

(*a*) The Act shall extend only to British subjects.

(*b*) So much of the 4th and 5th sections of the said Act as relates to sending a report of the issue of a warrant together with the information or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive shall be excepted, and in lieu of such information the person acting as the Magistrate shall inform the fugitive that in the British Possession to which he may be conveyed he has the right to apply for a writ of *habeas corpus* or other like process.

(*c*) So much of the 6th section of the said Act as requires the expiration of fifteen days before issue of warrant shall be excepted.

(*d*) The Political Resident shall not be bound to return a fugitive offender to a British Possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that Possession.

(*e*) For the purposes of Part II of the said Act, Muscat, Bahrein, Kuwait, Qatar and the Trucial States, shall be deemed to be one group of British Possessions.

**13.** The Colonial Prisoners Removal Act, 1884(**a**), shall apply to the Kuwait as if Kuwait were a British Possession, but references to the Governor of a British Possession shall be construed as references to the Political Resident.

**14.** Where, by virtue of an Act of Parliament of the United Kingdom, or of this Order, or otherwise, any provisions of any Acts of Parliament of the United Kingdom, or of any Law in force in India, or of any Orders in Council other than this Order, are applicable within the limits of this Order, or any forms, regulations, or procedure prescribed or established by or under such Act, Law, or Order, are made applicable for any purpose of this Order, or any other Order relating to Kuwait, such Acts, Laws, Orders, forms, regulations, or procedure may be construed or used with such alterations and adaptations not affecting the substance as may be necessary having regard to local circumstances, and anything required to be done by, to, or before any Court, Judge, Officer, or Authority may be done by, to, or before a Court, Judge, Officer, or Authority having the like or analogous functions, or by, to, or before any Officer designated by the Secretary of State or by the Court (as the case may require) for that purpose; and in case any difficulty occurs in the application the Secretary of State may direct by, to, or before whom and in what manner anything is to be done, and such Act, Law, Order, form, regulation or procedure shall be construed accordingly.

Where, under any such Act of Parliament, Law, or Order, any publication is required to be made as respects any judicial proceeding in any "Gazette" or otherwise, such publication shall be made by such mode as the Court shall think fit to direct.

**15.** All orders, criminal or civil, duly made by a Court under the Bahrein, Qatar, Muscat and Trucial States Orders may, on application to the Court, be rendered enforceable within the limits of this Order as if they were orders of the Court.

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(**a**) 47 & 48 Vict. c. 31.

## PART III.—COURTS

**16.**—(1) For the purposes of the exercise of jurisdiction under this Order, there shall be constituted and maintained:—

(i) The Court of the Political Agent:

(ii) The Chief Court:

(iii) The Full Court.

(2) (i) The Court of the Political Agent shall have the powers and jurisdiction:

(*a*) in criminal matters of a District Magistrate and Sessions Judge:

(*b*) in civil matters of a District or principal Civil Court of original jurisdiction in the district.

(ii) The Political Agent and such other officers as may from time to time be appointed for this purpose by the Secretary of State shall be the Judges of the Court of the Political Agent and shall have the powers of a District Magistrate and Sessions Judge and of a District Judge.

(3) (i) The Chief Court shall have the powers and jurisdiction:

(*a*) in criminal matters of a High Court of Judicature:

(*b*) in civil matters of the highest Court of Appeal for the district, and shall hear appeals

from the Court of the Political Agent.

(ii) The Judges of the Chief Court shall be the Political Resident and the Assistant Judge. The Assistant Judge shall be appointed by order of the Secretary of State and shall be a person who has held judicial office under the Crown or been a Member of the Bar of England, Scotland or Northern Ireland of not less than 9 years' standing. Each Judge of the Chief Court may exercise all the powers and jurisdiction of the Court.

(4) (i) The Full Court shall have jurisdiction to hear and determine all appeals from the Chief Court and shall, as far as circumstances permit, follow the procedure and practice laid down in the Indian Codes of Criminal and Civil Procedure with regard to appeals. Appeals in civil matters shall only be by leave of the Chief Court.

(ii) The Full Court shall sit in accordance with arrangements from time to time made by the Political Resident, and shall be composed of not more than three and not less than two members nominated by the Political Resident from among the following:—

The Political Resident.

The Assistant Judge.

Any Judge of the High Court of Kenya.

Any Judge of the High Court of Cyprus.

Any Member of the Bar of England, Scotland and Northern Ireland of not less than 9 years' standing.

(iii) Unless the Political Resident is sitting as a member of the Full Court, the senior member of the Court shall preside. In case of difference of opinion in the Full Court of three members, the decision shall be in accordance with the decision of the majority. In the case of a difference of opinion in the Full Court of two members, the decision under appeal shall stand, but the Political Resident may cause a third member to be added to the Court after the close of the hearing, who may participate in the decision after studying the record.

(5) Appeals from the Full Court to His Majesty in Council shall be either by leave of the Full Court or by special leave of His Majesty in Council. Rules of Court shall provide for the procedure to be followed with regard to appeals to His Majesty in Council.

## Part IV.—Criminal Matters

**17.**—(1) Subject to the other provisions of this Order the Code of Criminal Procedure and the other Indian enactments relating to the administration of criminal justice made applicable to all persons subject to this Order shall apply to, and have effect in, Kuwait as if it were a district in the province of Bombay. The powers of the Central Government and of the Provincial Government under those enactments shall be exercisable by the Secretary of State.

Notwithstanding anything in the previous provisions of this paragraph, or in the enactments therein referred to, in any case involving an offence punishable under Chapters XVI to XXIII inclusive of the Indian Penal Code which under the second schedule of the Indian Code of Criminal Procedure is triable by a magistrate of the second or third class, the Political Agent may, if both the complainant and the defendant are Mohammedans and are acquiescent in such procedure, order the case to be tried by a Qazi, a representative from the Court of the Political Agent attending to record briefly the proceedings. In such cases the judgment passed by the Qazi shall not be carried into effect until it is ratified by the Court of the Political Agent, and the Court of the Political Agent shall have power to revise the finding and sentence as if the Qazi were a subordinate Magistrate, or to return the case for retrial to the same or another Qazi. The sentence of the Qazi, when ratified by the Political Agent, shall for all purposes be regarded as if it were the decision of the Court of the Political Agent.

(2) Any jurisdiction exercisable by the Chief Court in criminal matters under this Order may be exercised by that Court either within the limits of this Order or elsewhere within the limits of the Bahrein, Qatar, Muscat and the Trucial States Orders.

**18.** In cases in which the Code of Criminal Procedure requires the sentence of a Court of Session to be confirmed by the High Court, the sentence shall be referred for confirmation to the Secretary of State instead of to the Chief Court.

**19.**—(1) Where a person subject to the Order is accused of the commission of an offence cognisable by the Court of the Political Agent, the Chief Court may, where it appears so expedient, by warrant under the hand and seal of the Political Resident, cause the accused to be sent for trial by a Court of the Political Agent established by Order in Council in Qatar, Bahrein, Muscat and Oman or the Trucial States.

(2) The warrant shall be sufficient authority to any person to whom it is directed to receive and retain the person therein named and to carry him to and deliver him up at Qatar, Bahrein, Muscat and Oman or the Trucial States according to the warrant.

(3) Where any person is to be sent to Qatar, Bahrein, Kuwait, Muscat and Oman or the Trucial States the Court before which he is charged shall take the preliminary examination, and shall bind over such of the proper witnesses as are British subjects in their own recognisances to appear and give evidence at the trial.

(4) Where a person subject to the Bahrein, Qatar, Muscat or Trucial States Orders is accused of an offence within the limits of the aforesaid Orders and has by warrant under seal of the Political Resident been sent for trial

in Kuwait the Court shall have power to try the case as if the alleged offence had been committed within the limits of this Order by a person subject to this Order.

**20.**—(1) The Political Resident may from time to time, subject to the directions of the Secretary of State, by general order under his hand and seal, prescribe the manner in which, and the places within the limits of this Order or the Bahrein, Qatar, Muscat and Trucial States Orders at which, sentences passed by the Court are to be carried into execution, and may appoint any building or place specified in the order to be a prison for the purposes of this Order, and such persons as he thinks fit to be gaolers, keepers or officers of any such prison.

(2) If at the place at which any Court is held there is no place or building appointed as a prison in accordance with the preceding paragraph of this Article, it shall be lawful for any Court, by order or warrant under the seal of the Court, temporarily and for the purposes of any particular case or cases to appoint any place or building specified in the order to be a prison for the purposes of this Order, and such persons as the Court thinks fit to be keepers in such prison.

(3) A warrant under the seal of the Court shall be sufficient authority to the person or persons to whom it is directed to deliver and detain the person named therein according to the warrant at any prison appointed in accordance with the preceding paragraphs of this Article.

(4) A warrant under the seal of any other court acting under the Bahrein, Qatar, Muscat or Trucial States Orders shall be sufficient authority within the limits of this Order to the person or persons to whom it is directed to deliver and detain the person named therein according to the warrant at any prison appointed in accordance with the preceding paragraphs of this Article.

**21.**—(1) Without prejudice to the provisions of Article 22 of this Order, the Political Resident or the Political Agent acting under the authority of the Political Resident may, by warrant under his hand and seal, order any person convicted by the Court and sentenced to imprisonment to be sent to and detained at any prison within the limits of this Order or the Bahrein, Qatar, Muscat or Trucial States Orders specified therein. Such prison may be a place appointed in accordance with the provisions of paragraph (1) of Article 20, or a place appointed temporarily and for the purpose of the particular case.

(2) The warrant of the Political Resident or the Political Agent acting under the authority of the Political Resident shall be sufficient authority to any person to whom it is directed to carry and deliver up the person therein named and to receive and detain him at the prison named according to the warrant.

(3) In any case where a person sentenced to imprisonment for a term exceeding one month is detained in a prison temporarily appointed in accordance with the provisions of paragraph (2) of Article 20, the Court by which the sentence was awarded shall report the case and the circumstances thereof to the Political Resident for his directions.

(4) Without prejudice to the provisions of Article 22, the Political Resident upon the receipt of such report may make an order under paragraph (1) of this Article, or may direct that the sentence shall continue to be served at the place where the prisoner is at present detained.

**22.**—(1) Where an offender convicted before any Court under this Order is sentenced to imprisonment, and the Political Resident proceeding under section **7** of the Foreign Jurisdiction Act, 1890, authority in that behalf

being hereby given to him, considers it expedient that the sentence should be carried into effect elsewhere than within the limits of this Order, and the offender is accordingly sent for imprisonment to a place outside the limits of this Order, the place shall be either a place in some part of His Majesty's dominions the Government whereof consents that offenders may be sent thither under this Article, or a place in which by treaty, grant, usage, sufferance, or other lawful means His Majesty has jurisdiction.

(2) A warrant under the hand and seal of the Political Resident shall be sufficient authority to any person to whom it is directed to receive and detain the person therein named and to carry him to and deliver him up at the place named according to the warrant.

**23.**—(1) In cases of murder or culpable homicide, if either the death or the criminal act which wholly or partly caused the death happened in Kuwait, a Court acting under this Order shall have the like jurisdiction over any person to whom this Order applies who is charged either as a principal offender or as an abettor as if both such criminal act and the death had happened in Kuwait.

(2) In the case of any offence committed on the high seas or within the Admiralty jurisdiction by any person who at the time of committing such offence was on board a British ship, or by any British subject on board a foreign ship to which he did not belong, the Court shall, subject to the provisions of this Order, have jurisdiction over such person as if the offence had been committed within its jurisdiction.

(3) In cases tried under this Article no different sentence can be passed from that which could have been passed in India if the crime had been tried there on 14th August, 1947.

(4) The foregoing provisions of this Article shall be deemed as well as the provisions of Article 12 (2) above to be adaptations, for the purposes of this Order and of the Foreign Jurisdiction Act, 1890, of the following enactments, namely:—

The Admiralty Offences (Colonial) Act, 1849;
The Admiralty Offences (Colonial) Act, 1860;
The Merchant Shipping Act, 1894, Part XIII;

and those enactments shall apply accordingly, and be administered in Kuwait.

**24.** Where a person is convicted of an offence the Court before which he is convicted may, if it thinks fit at any time before he is discharged, require him to give security to the satisfaction of the Court for his future good behaviour, and for that purpose may, if it thinks fit, cause him to come or be brought before the Court.

**25.**—(1) Where it is shown by evidence on oath, to the satisfaction of the Court, that any person to whom this Order applies has committed, or is about to commit, an offence against this Order, or is otherwise conducting himself so as to be dangerous to peace and good order, or is endeavouring to excite enmity between the people of Kuwait and His Majesty, or is intriguing within the limits of this Order against His Majesty's power and authority, the Court may, if it thinks fit, by order under its seal, prohibit that person from being within the limits of this Order during any time therein specified, not exceeding two years, or alternatively may require him to give security for his future good behaviour.

(2) The Court, by order in writing under its seal, may vary any order of prohibition (not extending the duration thereof), and may revoke any order of prohibition.

(3) The Court shall forthwith report the order and the grounds thereof to the Chief Court, which shall forthwith report to the Secretary of State every order made under this Article, and the grounds thereof, and the proceedings thereunder.

**26.**—(1) If any person to whom this Order applies fails to give security for good behaviour or for keeping the peace when lawfully required to do so, or fails during the continuance of the security to keep the peace or be of good behaviour, or fails to comply with an order of prohibition made under this Order, the Court may, if it thinks fit, order that he be deported from any place within its jurisdiction as prescribed by this Order.

(2) If the order of deportation is made by the Court, it shall forthwith report to the Chief Court the order and the grounds thereof.

(3) Thereupon the person ordered to be deported, unless the Chief Court thinks fit otherwise to direct, shall, as soon as practicable and in the case of a person convicted either after execution of the sentence or while it is in course of execution, be removed in custody under warrant to the place named in the warrant.

(4) The place named in the warrant shall be

(i) a place in that part of His Majesty's dominions or in that protectorate, protected state, mandated territory or trust territory to which the person belongs or in that state of which the person is a national or

(ii) a place in another territory or state the Government of which consents to the reception of persons deported under this Order.

(5) The Court, on making an order of deportation, may, if it thinks fit, order the person to be deported to pay all or any part of the expenses of his deportation, to be fixed by the Court in the order. Subject thereto, the expenses of deportation shall be defrayed as the Secretary of State, with the concurrence of the Treasury, may direct.

(6) The Chief Court shall forthwith report to the Secretary of State every order of deportation made under this Order, and the grounds thereof, and the proceedings thereunder.

(7) If a person deported under this Order returns to Kuwait without permission in writing of the Chief Court or the Secretary of State (which permission the Chief Court or the Secretary of State respectively may give), he shall be punished with imprisonment for a term which may extend to two months, or with a fine which may extend to 1,000 rupees, or with both.

(8) He shall also be liable to be forthwith again deported under the original or a new order, and a fresh warrant.

**27.** An appeal shall not lie against an order of prohibition or of deportation made under this Order.

**28.**—(1) Where under this Order a person is to be sent or removed or deported from any place within the jurisdiction of the Court as prescribed by this Order he shall, by warrant of the Court sealed with its seal, be detained, if necessary in custody or in prison, until a fit opportunity for his removal or deportation occurs, and then be put on board a vessel belonging to, or in the service of, His Majesty, or, if no such vessel is available, then on board some other British or other fit vessel.

(2) The warrant shall be sufficient authority to the person to whom it is directed or delivered for execution, and to the Commanding Officer or master of the vessel, to receive and detain the person therein named, in the manner therein prescribed, and to send or remove and carry him to the place therein named, according to the warrant.

(3) In case of sending or removal for any purpose other than deportation, the warrant shall be issued in duplicate, and the person executing it shall, as soon as practicable after his arrival at the place therein named, deliver according to the warrant, with one of the duplicates of the warrant, to a constable, or proper officer of police, or keeper of a prison, or other proper authority or person there, the person named in the warrant, to be produced on the order of the proper Court or authority there, or to be otherwise dealt with according to law.

**29.**—(1) If any person to whom this Order applies does any of the following things, namely:—

(*a*) Wilfully by act or threat obstructs any Officer of, or person executing any process of, the Court in the performance of his duty; or

(*b*) Within or close to the room or place where the Court is sitting wilfully misbehaves in a violent, threatening, or disrespectful manner to the disturbance of the Court, or to the intimidation of suitors or others resorting thereto; or

(*c*) Wilfully insults any members of the Court, or any assessor, or any person acting as a Clerk or Officer of the Court during his sitting or attendance in Court, or in his going to or returning from Court; or

(*d*) Does any act in relation to the Court or a Judge thereof, or a matter pending therein, which, if done in relation to a High Court in British India, would have been punishable as a contempt of such Court;

such person shall be liable to be apprehended by order of the Court with or without warrant, and, on inquiry and consideration, and after the hearing of any defence which such person may offer, without further process or trial, to be punished with a fine not exceeding 100 rupees, or with imprisonment not exceeding twenty-four hours.

A Minute shall be made and kept of every such case of punishment, recording the facts of the offence and the extent of the punishment.

Provided that, if the Court thinks fit, instead of proceeding under the preceding provisions, it may direct or cause the offender to be tried in a separate criminal prosecution or proceeding, in which the offender shall be liable to any punishment to which he would have been liable on 14th August, 1947, if the offence had been committed in relation to the Court of a Sessions Judge in India.

Nothing herein shall interfere with the power of the Court to remove or exclude persons who interrupt or obstruct the proceedings of the Court.

(2) The provisions of paragraph (1) of this Article shall also apply if any person subject to this Order does any of the acts enumerated in sub-paragraphs (*b*), (*c*) or (*d*) thereof in relation to a Qazi to whom a matter has been referred under Article 17 (1), 42 or 54 (6).

**30.** If any person to whom this Order applies smuggles or imports into or exports from Kuwait any goods whereon any duty is charged by or payable to the Sheikh, with intent to evade payment of the duty, he shall be punished with imprisonment for a term which may extend to two months, or with a fine which may extend to 1,000 rupees or to a sum equal to treble the value of the goods (whichever shall be the greater), or with both imprisonment and fine.

**31.** If any person to whom this Order applies smuggles or imports into or exports from Kuwait any goods the importation or exportation whereof is lawfully prohibited he shall be punished with imprisonment for a term which may extend to one year, or with a fine which may extend to 2,000 rupees or

to a sum equal to treble the value of the goods (whichever shall be the greater), or with both imprisonment and fine.

**32.** Any act which, if it had been done in British India on 14th August, 1947, would have been an offence against the law then in force in British India, relating to trade-marks, merchandise marks, copyright designs, or inventions, shall, if done in Kuwait by a person to whom this Order applies, be an offence punishable with imprisonment for a term which may extend to two months, or with a fine which may extend to 1,000 rupees, or with both.

**33.**—(1) If any person to whom this Order applies:—

(i) Publicly derides, mocks or insults any religion, established or observed within the limits of this Order; or

(ii) Publicly offers insult to any religious service, feast, or ceremony established or kept in any place within those limits, or to any place of worship, tomb, or sanctuary belonging to any religion established or observed within those limits, or belonging to the ministers or professors thereof; or

(iii) Publicly and wilfully commits any act tending to bring any religion established or observed within those limits, or its ceremonies, modes of worship, or observances into hatred, ridicule, or contempt, and thereby to provoke a breach of the public peace;

he shall be guilty of an offence, and on conviction thereof liable to imprisonment, which may extend to two years, with or without a fine not exceeding 500 rupees, or to a fine alone not exceeding 500 rupees.

(2) The Political Agent shall take such precautionary measures as seem to him proper and expedient for the prevention of such offences.

**34.**—(1) If any person subject to this Order prints, publishes, or offers for sale any printed or written newspaper or other publication containing seditious matter, he shall be guilty of an offence and on conviction thereof liable to imprisonment, which may extend to two years, with or without a fine not exceeding 1,000 rupees or to a fine alone not exceeding 1,000 rupees, and may, in addition to, or in lieu of, any other sentence, be ordered to give security for good behaviour, or to be deported.

(2) Where any printed or written newspaper or other publication containing seditious matter is printed, published, or offered for sale within the limits of this Order by a Company incorporated under the laws of any part of His Majesty's dominions, protectorates or protected states or of any mandated territory or trust territory, the Court may, after notice to the Company, and on proof of the facts, require the Company to give security to abstain from such printing, publishing, or offering for sale in future. If the Company fail to give security, or if the Company is shown to have again printed, published, or offered for sale such newspaper, or other publication containing seditious matter after giving such security, the Court may make an order prohibiting the Company from carrying on business within the limits of the Order, and may make such other orders as to the Court may seem just. The Court may also declare all the property of the Company within the limits of the Order to be forfeited to His Majesty, and shall dispose of it, subject to any general or special directions of the Secretary of State, as it thinks fit.

(3) Matter calculated to excite tumult or disorder, or to excite enmity between persons subject to this Order and the Sheikh or Kuwait subjects, or between different classes of person subject to this Order, or between the Sheikh and Kuwait subjects, shall be deemed to be seditious matter within the meaning of this Article.

**35.**—(1) If a Clerk or Officer of the Court acting under pretence of the process or authority of the Court, is charged with extortion, or with not paying over money duly levied, or with other misconduct, the Court may, if it thinks fit, enquire into the charge in a summary way, and may for that purpose summon and enforce the attendance of all necessary persons as in a suit, and may make such order for the repayment of any money extorted, or for the payment over of any money levied, and for payment of such damages and costs as the Court thinks fit.

(2) The Court may also, if it thinks fit, on the same enquiry impose on the Clerk or Officer such fine, not exceeding 50 rupees for each offence, as the Court thinks fit.

(3) A Clerk or Officer punished under this Article shall not, without the leave of the Court, be liable to a civil suit in respect of the same matter; and any such suit, if already or afterwards begun, may be stayed by the Court in such manner and on such terms as the Court thinks fit.

(4) Nothing in this Article shall be deemed to prevent any person from being prosecuted under any other legal provision, which is applicable, for any act or omission punishable under this Article, or from being liable under that other law to any other or higher punishment or penalty than that provided by this Article:

Provided that no person shall be punished twice for the same offence.

**36.** Any person being within the limits of this Order may be proceeded against, tried, and punished under this Order for piracy wherever committed.

**37.**—(1) The Foreign Jurisdiction Neutrality Order in Council, 1904(**a**), shall apply to all persons and to all property subject to this Order.

(2) Nothing in this Order shall affect the operation within the limits of the Order of the Foreign Jurisdiction (Military Forces) Order in Council, 1927(**b**).

**38.** Where a person entitled to appeal to the Chief Court or the Full Court from any judgment or order passed in the exercise of criminal jurisdiction under this Order desires so to appeal, he shall present his petition of appeal to the Court which passed the judgment or order; and the petition shall with all practicable speed be transmitted to the Chief Court or the Full Court with certified copies of the charge (if any) and proceedings, of all documentary evidence submitted or tendered, of the depositions, of the notes of the oral testimony, and of the judgment or order, and any argument on the petition of appeal that the appellant desires to submit to the Chief Court or the Full Court.

**39.** The Court against whose judgment or order the appeal is preferred may postpone the execution of the sentence pending the appeal, and shall, if necessary, commit the person convicted to prison for safe custody, or detain him in prison for safe custody, or shall admit him to bail, and may take security, by recognisance, deposit of money, or otherwise, for his payment of any fine.

## PART V.—CIVIL MATTERS

**40.**—(1) Subject to the other provisions of this Order, the Code of Civil Procedure and the other Indian enactments relating to the administration of civil justice and to insolvency and bankruptcy made applicable to all persons subject to this Order shall apply to, and have effect in, Kuwait as if it were a district in the province of Bombay on 14th August, 1947. The powers both

(a) S.R. & O. 1904 (No. 1654) p. 174. (b) S.R. & O. 1927 (No. 359) p. 478.

of the Central Government and the Provincial Government under those enactments shall be exercisable by the Secretary of State.

(2) Any jurisdiction exercisable by the Chief Court under this Order in civil matters may be exercised by that Court, either within the limits of this Order or elsewhere within the limits of the Bahrein, Qatar, Muscat and Trucial States Orders.

**41.** When a suit between persons to whom this Order applies is filed in the Court of the Political Agent, the Court shall enquire from the several parties whether they desire that proceedings shall be instituted in accordance with the Code of Civil Procedure and the Indian enactments made applicable to Kuwait, or in accordance with local usage, and shall record their replies.

**42.** When any of the several parties desire that the suit shall be determined in accordance with the Code of Civil Procedure and other enactments made applicable to Kuwait, the Court of the Political Agent shall forthwith proceed to decide the suit in accordance with the provisions of such enactments, as far as local conditions permit.

The Court of the Political Agent may, however, refer any matter in the progress of a suit which involves a point of Muhammadan law to a Qazi for a decision, or may send any party or witness, being a Muhammadan, to a Qazi for the administration of an oath; or may refer any matter in the progress of a suit between parties belonging to the same community which, in the discretion of the Court, is a fit and proper subject for the decision of the local leaders of that community, to a punch or jama'at of the leaders of such community; or, in commercial cases, may refer any matter in the progress of a suit which, in the discretion of the Court, is a fit and proper subject for the decision of the principal local merchants to a majlis or jama'at of such merchants.

**43.**—(1) The Foreign Jurisdiction (Admiralty) Order in Council, 1910(a), shall apply to Kuwait, and the Chief Court shall have the jurisdiction conferred by Article 4 of that Order, and the Court of the Political Agent shall be deemed to be a Provincial Court, and the Registry thereof a District Registry within the meaning of the said Order.

(2) Admiralty actions commenced in the said Registry shall be tried in the Court of the Political Agent unless the Chief Court is at the time sitting within the limits of this Order, or unless all parties agree that the action shall be tried in the Chief Court sitting elsewhere than within the limits of this Order.

(3) The duties of the Registrar and of the Marshal, either of the Chief Court or of the Court of the Political Agent, under the said Order shall be performed by such Officers as the Political Resident shall direct.

**44.**—(1) The Court of the Political Agent shall endeavour to obtain, as early as may be, notice of the deaths of all persons subject to this Order leaving property in any place within the jurisdiction of the Court as prescribed by this Order, and all such information as may serve to guide the Court with respect to the securing and administration of their property.

(2) On receiving notice of the death of such a person the Court shall put up a notice thereof at the Court-house, and shall keep the same there until probate or administration is granted, or, where it appears to the Court that probate or administration will not be applied for or cannot be granted, for such time as it thinks fit.

(a) S.R. & O. 1910 (No. 1183) p. 131.

(3) The Court shall, where the circumstances of the case appear so to require, as soon as may be, take possession of the property left by the deceased in any place within the jurisdiction of the Court as prescribed by this Order, or put it under its seal (in either case, if the nature of the property or other circumstances so require, making an inventory) and so keep it until it can be dealt with according to law, perishable articles being disposed of as the Court may consider best in the interests of the estate.

(4) All expenses incurred on behalf of the Court in so doing shall be the first charge on the property of the deceased, and the Court shall, by sale of part of that property, or otherwise, provide for the discharge of these expenses.

(5) When a person subject to this Order dies in Kuwait or elsewhere intestate, then, until administration is granted, his property in Kuwait shall be vested in the Political Agent.

**45.** If a person to whom this Order applies, who is named executor in a will, and to the establishment of whose title as such it is necessary to obtain probate of that will, takes possession of and administers, or otherwise deals with, any part of the property of the deceased, and does not obtain probate within one month after the death, or after the termination of any proceeding respecting probate or administration, he shall be liable to pay double the amount of any fees chargeable on obtaining probate, and he shall also be liable to a fine which may extend to 1,000 rupees.

**46.** If any person to whom this Order applies, other than the person named executor, or the administrator, or a person entitled to represent the deceased without obtaining probate or letters of administration, or an Officer of the Court, takes possession of and administers or otherwise deals with, any part of the property of the deceased, he shall, as soon as practicable, notify the fact and the circumstances to the Court of the Political Agent, and shall furnish to the Court all such information as the Court requires, and shall conform to any direction of the Court in relation to the custody, disposal, or transmission of the property or the proceeds thereof, and, in case of any contravention of this Article, he shall be punished with a fine, which may extend to 1,000 rupees.

**47.** Where a person to whom this Order applies is named executor in a will and survives the testator, but either dies without having obtained probate or, having been called on by the Court to apply for probate, does not appear, his right in respect of the executorship wholly ceases; and, without further renunciation, the representation of the testator and the administration of his property shall go and may be committed as if that person had not been appointed executor.

**48.** Where it appears to the Court that the value of the property or estate of a deceased person subject to this Order does not exceed 1,500 rupees the Court may, without any probate, letters of administration or other formal proceeding, pay thereout any debts or charges and pay, remit or deliver any surplus to such persons and in such manner as the Court thinks proper, and no member or Officer of the Court shall be liable to any action, suit, or proceedings in respect of anything done under this Article.

**49.** The Foreign Jurisdiction (Probates) Order in Council, 1935(a), shall apply to all persons and to all property subject to this Order.

(a) S.R. & O. 1935 (No. 896) p. 522.

**50.**—(1) When the circumstances of the case appear to the Court of the Political Agent so to require, for reasons recorded in its proceedings, the Court may, if it thinks fit, of its own motion or otherwise, grant letters of administration to an Officer of the Court.

(2) The Officer so appointed shall act under the direction of the Court, and shall be indemnified thereby.

(3) He shall publish such notices, if any, as the Court thinks fit, in Kuwait, the United Kingdom, and elsewhere.

(4) The Court shall require and compel him to file in the proper Office of the Court his accounts of his administration at intervals not exceeding three months, and shall forthwith examine them and report thereon to the Chief Court.

(5) The accounts shall be audited under the direction of the Court of the Political Agent.

(6) All expenses incurred on behalf of the Court in execution of this Article shall be the first charge on the estate of the deceased as dealt with in accordance with the provisions of this Order; and the Court shall, by the sale of that estate or otherwise, provide for the discharge of those expenses.

**51.** In cases where parties are Muhammadans the Court of the Political Agent may refer any question concerning probate of wills or administration of property of deceased persons to whom this Order applies to a Qazi for settlement under the general supervision of the Court.

**52.**—(1) If an Officer of the Court, employed to execute a decree or order, loses, by neglect or omission, the opportunity of executing it, then, on complaint of the person aggrieved and proof of the fact alleged, the Court may, if it thinks fit, order the Officer to pay the damages sustained by the person complaining, or part thereof.

(2) The order may be enforced as an order directing payment of money.

## PART VI.—MIXED CASES: KUWAIT SUBJECTS AND PERSONS SUBJECT TO THIS ORDER

### (a) *Criminal*

**53.**—(1) When any Kuwait subject desires to institute a complaint against a person to whom this Order applies, the Court of the Political Agent shall entertain the same, and shall (*a*) himself hear and determine it in his Court, or (*b*) if both parties are Muhammadans, refer it, with their consent, to a Qazi for decision, sending a representative of the Agency to record briefly the proceedings. Such decision when endorsed by the Court of the Political Agent shall for all purposes be considered as if it were that of the Court of the Political Agent.

(2) Provided that a Kuwait subject to whom this Order does not apply shall, if so required by the Court, first obtain and file in the proper Office of the Court the consent, in writing, of the competent authority on behalf of the Sheikh to his submitting, and that he shall submit by writing, to the jurisdiction of the Court, and, if required by the Court, give security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, costs and damages, and abide by and perform the decision to be given by the Court or on appeal.

(3) A cross complaint shall not be brought in the Court against the complainant, being a person not subject to this Order.

(4) When a person to whom this Order applies desires to institute a complaint against a person not subject to the said Order, the Court of the Political Agent shall entertain the same, and, after satisfying himself that *prima facie*

grounds for complaint exist, shall cause the matter to be brought before and decided by the highest authority of the Sheikh, or some person specially delegated by him for the purpose. The proceedings and final decision in a case shall not, however, be considered legal unless notice has been given and an opportunity afforded for the Political Agent or Officer appointed by him for the purpose to attend at the hearing and final decision.

(b) *Civil*

**54.**—(1) When any Kuwait subject desires to bring a suit against a person to whom this Order applies, the Court of the Political Agent shall admit the plaint, and may (*a*) hear and determine the suit in his Court, or (*b*) with the consent of the several parties, may refer the case to one or more arbitrators for settlement:

(2) Provided that a Kuwait subject to whom this Order does not apply shall, if required by the Court, first obtain and file in the proper Office of the Court the consent, in writing, of the competent authority on behalf of the Sheikh, to his submitting, and that he shall submit by writing to the jurisdiction of the Court, and, if required by the Court, give security to the satisfaction of the Court, and to such reasonable amount as the Court thinks fit, by deposit or otherwise, to pay fees, costs, and damages, and abide by and perform the decision to be given by the Court or on appeal.

(3) The award of the Arbitrator under sub-paragraph 1 (*b*) of this Article shall be final, and shall not be open to appeal unless such award shall within a reasonable time have been ordered by the Court of the Political Agent to be set aside on the ground that it is not final, or is defective, or that the Arbitrator has exceeded his authority, or has been guilty of misconduct in the matter.

(4) A cross suit shall not be brought in the Court against a plaintiff, being a person not subject to this Order, unless the first two conditions of sub-Article (2) above are fulfilled.

(5) When a person to whom this Order applies desires to institute a suit against a person not subject to the said Order, the Court of the Political Agent shall admit the same and after satisfying himself that *prima facie* grounds for bringing a suit exist, shall cause the matter to be brought before and decided by the highest authority of the Sheikh, or some person specially delegated by him for the purpose. The proceedings and final decision in a case shall not, however, be considered legal unless notice has been given and an opportunity afforded for the Political Agent, or Officer appointed by him for the purpose, to attend at the hearing and final decision.

(6) Nothing herein mentioned shall prevent the Court from referring any matter in the progress of a suit which involves a point of Muhammadan law to a Qazi for decision, or from sending any party or witness, being a Muhammadan, to a Qazi for the administration of an oath.

**55.**—(1) Where a person to whom this Order does not apply obtains, in a Court established under this Order, a decree or order against a defendant, being a person subject to this Order, and in another suit that defendant is plaintiff and the person to whom this Order does not apply is defendant the Court may, if it thinks fit, on the application of the person subject to this Order, stay the enforcement of the decree or order pending that other suit, and may set off any amount decreed or ordered to be paid by one party in one suit against any amount decreed or ordered to be paid by the other party in the other suit.

(2) Where a plaintiff, being a person to whom this Order does not apply, obtains a decree or order, in a Court established under this Order, against two or more defendants being persons subject to this Order jointly, and in

another suit one of them is a plaintiff and the person to whom this Order does not apply is defendant, the Court may, if it thinks fit, on the application of the persons subject to this Order, stay the enforcement of the decree or order pending that other suit, and may set off any amount decreed or ordered to be paid by one party in one suit against any amount decreed or ordered to be paid by the other party in the other suit, without prejudice to the right of the person subject to this Order to obtain contribution from his co-defendants under the joint liability.

(3) Where in a suit a person to whom this Order does not apply is co-plaintiff with a person subject to this Order, who is in Kuwait, it shall not be necessary for the person to whom this Order does not apply to give security under this Article as regards fees and costs, unless the Court so directs, but the co-plaintiff person subject to this Order shall be responsible for all fees and costs.

**56.**—(1) Every agreement for reference to arbitration between a person to whom this Order applies on the one hand, and a person not subject to this Order on the other hand, may, on the application of any party, be filed for execution in the Office of the Court.

(2) The Court shall thereupon have authority to enforce the agreement and the award made thereunder and to control and regulate the proceedings before and after the award in such manner and on such terms as the Court may think fit, in concert with the Sheikh or his representative.

(c) *General*

**57.**—(1) Where it is proved that the attendance of a person to whom this Order applies, to give evidence, or for any other purpose connected with the administration of justice, is required before a Kuwait tribunal, a Court established under this Order may, if it thinks fit, in a case and in circumstances in which the Court would require the attendance of that person before the Court, order that he do attend as required. The order may be made subject to such conditions as the Court thinks fit.

(2) If the person so ordered to attend, having reasonable notice of the time and place at which he is required to attend, fails to attend accordingly, and does not excuse his failure to the satisfaction of the Court, he shall, independently of any other liability, be liable to be punished with imprisonment for a term which may extend to two months, or with a fine which may extend to 1,000 rupees, or with both.

**58.** When a person to whom this Order applies invokes or submits to the jurisdiction of a Kuwait tribunal, the Court may, on such evidence as it thinks fit to require, enforce payment of such fees and expenses in the same manner as if they were fees payable in a proceeding in the Court, and shall pay over and account for the same, when levied, to the proper Kuwait authority, as the Court may direct. The Court may also enforce compliance with any judgment given by such Tribunal against such person in the same manner as it may enforce compliance with a judgment given by the Court.

**59.**—(1) If a person to whom this Order applies wilfully gives false evidence in a proceeding before a Kuwait tribunal, or in an arbitration between a person to whom this Order applies, on the one hand, and a person to whom this Order does not apply, on the other hand, he shall be guilty of an offence, and shall, on conviction, be liable to be punished with imprisonment for a term which may extend to two months or with a fine which may extend to 1,000 rupees, or with both.

(2) Nothing in this Article shall exempt a person from liability under any other law applicable within the limits of this Order to any other or higher punishment or penalty :

Provided that no person shall be punished twice for the same offence.

## PART VII.—REGISTRATION

**60.** A register of persons subject to this Order (other than corporations) shall be kept in the Political Agency.

**61.** Every person subject to this Order (other than a corporation) resident within the limits of this Order shall, in the month of January of each year, be registered at the Political Agency. A person subject to this Order arriving within the limits of this Order shall apply for registration within one month after his arrival, provided that a person who fails to apply for or to obtain registration within the time limited by this Article may be registered at any time if he excuses his failure to the satisfaction of the Political Agent.

**62.** Where a person is in possession of a valid British or foreign passport, the Political Agent shall, on the first registration of any such person, endorse on the passport without further fee than that provided for in Article 65 a certificate of registration in such form as may be prescribed by the Secretary of State. Where any such person applies for the renewal of the registration and produces his passport, the renewal of the registration shall, without further fee than that provided for in Article 65, be endorsed thereon.

**63.** Every person, who has not previously been registered, applying to be registered under this Order shall, unless excused by the Political Agent, attend personally for that purpose at the Political Agency ; but any person applying for the renewal of his registration need not attend personally unless directed by the Political Agent so to do, provided that the registration of the wife or wives of a man who is registered under this Order may, if she or they be living with him, be effected without their personal attendance being required, and provided also that the registration of minors, being his relatives in whatever degree, living with the head of a family who is registered under this Order, may be effected without their personal attendance being required.

**64.** A person registered in any register of British subjects established under the provisions of any Order in Council which have been repealed shall be registered under the provisions of this Order, unless the Political Agent is satisfied after enquiry that the previous registration was erroneous or that such person is not entitled to registration under the provisions of this Order.

**65.** Every person shall, on every registration of himself and on every renewal of registration, pay a fee of one rupee, or such other fee as the Secretary of State from time to time appoints. The amount of the fee so appointed may be uniform for all persons, or may vary according to the position and circumstances of different classes, if the Secretary of State from time to time so directs, but may not in any case exceed 3 rupees.

**66.** Where any person applies to be registered, he shall be entitled without a fee to the assistance of the Political Agent in the preparation of any affidavit that may be required.

**67.** The Political Agent may require the production of such evidence that an applicant for registration is entitled to the status of a British subject as he may see fit, but subject to such directions as may be issued by the Secretary of State.

**68.** If any British subject neglects to obtain registration under the provisions of this Order, he shall not be entitled to be recognised or protected as a British subject within the limits of this Order, and he and any other person subject to this Order who neglects to obtain registration shall be liable to a fine not exceeding 25 rupees for each instance of such failure; but he shall, although not registered, be subject to the jurisdiction of the Courts established by this Order.

**69.** A register of companies incorporated or registered in the United Kingdom or in any other part of His Majesty's dominions, protectorates or protected states or in any mandated territory or trust territory or in any other country outside the limits of this Order other than Bahrein, Qatar, or the Trucial States, and carrying on business in Kuwait, shall be kept in the Political Agency, and every such company carrying on business in Kuwait shall register there.

**70.** On the registration of a company at the Political Agency there shall be deposited and filed a copy of the certificate of incorporation of the company or other document corresponding thereto, a statement showing the nominal capital of the company and the amounts thereof which have been subscribed and paid up respectively, and, if the company has been incorporated under a law which provides for the periodical filing of a list of the share-holders, a copy of the last list so filed.

**71.** The Political Agent shall, on the registration of a company at the Political Agency, issue to the person making the registration a certificate, signed and sealed, that the company has been so registered.

**72.**—(1) Every company registered under this Order shall register the name and address of the manager or other chief local representative in Kuwait, and shall from time to time, as may be necessary, register any alteration of the representative of the company or in his address.

(2) Rules of Court made under Article 77 may provide that service of writs, notices, or other documents upon the person registered under this Article, or at his address, shall be good service of such documents upon the company.

**73.** Registration of a company under this Order shall not require to be renewed annually, but may be renewed from time to time as the parties may desire, and shall be renewed when any change takes place in the name of the company.

**74.** On every registration of a company under this Order, and on every renewal thereof, there shall be payable a fee of 10 rupees, and on every registration under Article 72 (1) there shall be payable a fee of 1 rupee.

**75.** Any company failing to make such registration or to deposit or file such documents as required by Articles 69, 70 and 72 of this Order and every Director, Manager, Secretary or other officer who is knowingly a party to such default shall be guilty of an offence under this Order, and on proof thereof shall be liable to a fine not exceeding 15 rupees a day for every day during which such offence continues, but not exceeding in all 500 rupees.

## PART VIII.—MISCELLANEOUS PROVISIONS

**76.**—(*a*) Persons subject to this Order are prohibited from alienating to or acquiring from any person of whatever nationality any land or house property within the limits of this Order, either by gift, purchase, mortgage, or other form of conveyance, without due execution of signature before and registration by the Political Agent previous to the transfer of such property.

Any person subject to this Order charged with any breach of this paragraph shall be liable to, and on conviction punishable under this Order by, a fine not exceeding 500 rupees, or the total value of the property purporting to be so transferred (whichever is greater), or imprisonment up to one calendar month, or both.

(*b*) Any such deed, or instrument of gift, purchase, mortgage, or other form of conveyance, purporting to transfer property otherwise than in accordance with the provision of (*a*) above may, on that ground alone, be declared void and of no effect by any Court acting under this Order.

**77.** The Political Resident may, from time to time, make rules of procedure and other rules, consistent with this Order, for the better execution of the provisions herein contained in respect of any matter arising in the course of any civil or criminal case, including insolvency and bankruptcy proceedings. These rules shall be approved by the Secretary of State before they enter into force.

**78.**—(1) The Political Resident may, from time to time, make rules imposing fees leviable in respect of any proceedings in, or processes issued out of, any Court established under this Order. These rules shall be approved by the Secretary of State, with the concurrence of the Treasury, before they enter into force.

(2) But a Court before which any matter is pending may, in any case, if it thinks fit, on account of the poverty of a party, or for any other reason, dispense in whole or in part with the payment of any fees chargeable in respect of such matter.

**79.**—(1) All fees, charges, expenses, costs, fines, damages, and other money payable under this Order or under any law made applicable by this Order, may be enforced under order of the Court by seizure and sale of goods, and in default of sufficient goods, by imprisonment as a civil prisoner for a term not exceeding one month, but such imprisonment shall not operate as a satisfaction or extinguishment of the liability.

(2) Any bill of sale or mortgage or transfer of property made with a view of avoiding such seizure or sale shall not be effectual to defeat the provisions of this Order.

(3) All fees, penalties, fines and forfeitures levied under this Order, and fees, other than actual Court fees, that may be levied under the provisions of this Order shall be paid to the public account, and shall be applied in such manner as the Secretary of State, with the consent of the Treasury, may direct.

**80.** Whenever an acting Political Agent or Assistant Judge has commenced the hearing of any cause or matter, civil or criminal, he may, unless the Chief Court otherwise directs, continue and complete the hearing and determination thereof, notwithstanding that his authority to act as Political Agent or Assistant Judge has otherwise ceased by reason of the expiration of the time for which he was appointed to act or by reason of the happening of any event by which his authority is determined.

**81.** The Political Resident or the Political Agent may exercise any power conferred on any Justices of the Peace within His Majesty's dominions by any Act of Parliament, for the time being in force, regulating merchant seamen or the mercantile marine.

**82.** Where under the Merchant Shipping Act, 1894, anything is authorised to be done by, to or before a consular officer, such thing may be done in any place in Kuwait by, to, or before the Political Resident or the Political Agent.

**83.** The Political Resident and the Political Agent shall each be entitled in Kuwait to act as a Notary Public.

**84.** The Court shall have jurisdiction from time to time to make an order requiring a person to whom this Order applies to contribute in such manner as the Court directs to the support of his wife, or to the support of his or her child, whether legitimate or not, being in the opinion of the Court under the age of 16 years. Any such order may be made in a summary way as if the neglect to provide for the support of such wife or child were an offence, and any failure to comply with any such order shall be deemed to be an offence, and shall be punishable with a fine not exceeding by more than 10 rupees the amount unpaid under the said order, and the Court may direct any fine imposed for such offence to be applied for the support of such wife or child in such manner as the Court thinks fit.

**85.** The Political Resident shall have power to make Regulations (to be called King's Regulations) for the following purposes (that is to say):—

(*a*) For the peace, order, and good government of persons to whom this Order applies in relation to matters not provided for by this Order.

(*b*) For securing the observance of any Treaty or arrangement for the time being in force, relating to any place within the limits of this Order, or of any native or local law or custom, whether relating to trade, commerce, revenue, or any other matter.

(*c*) For applying, amending, modifying or repealing with respect to Kuwait any Acts or enactments which apply, or are made applicable, or have been brought into operation in Kuwait, by or under any of the provisions of Article 11 or 12 of this Order.

(*d*) For regulating or preventing the importation or exportation of arms or munitions of war, or any parts or ingredients thereof, and for giving effect to any Treaty relating to the importation or exportation of the same.

(*e*) For requiring returns to be made of the nature, quantity and value of articles exported from or imported into Kuwait, by or on account of any person to whom this Order applies, or in any British ship, and for prescribing the times and manner at or in which and the persons by whom, such returns are to be made.

(*f*) For the governance, visitation, care, and superintendence of prisons.

(*g*) For the recovery of lighting and other dues from shipping.

**86.**—(1) Any Regulations made under the preceding Article may provide for forfeiture of any goods, receptacles, or things in relation to which, or to the contents of which, any breach is committed of such Regulations, or of any Treaty or any native or local law or custom the observance of which is provided for by such Regulations.

(2) Any person to whom this Order applies committing a breach of any such Regulations shall, in addition to any forfeiture prescribed thereby, be liable, on conviction, to imprisonment for a period not exceeding two years or to a fine or to both.

(3) Any fine imposed for a breach of Regulation shall not exceed 1,500 rupees: provided that in the case of any breach of any native or local law relating to customs law, or under which the importation or exportation of any goods is prohibited or restricted, the fine may extend to a sum equivalent to treble the value of the goods in relation to which the breach is committed.

**87.**—(1) King's Regulations shall not take effect until they are allowed by the Secretary of State; provided that in case of urgency declared in any such Regulations the same shall take effect before such allowance, and shall continue to have effect unless and until they are disallowed by the Secretary of State, and until notification of such disallowance is received and published by the Political Resident, and such disallowance shall be without prejudice to anything done or suffered under such Regulations in the meantime.

(2) All King's Regulations shall be published by the Political Resident in such manner and at such places as he may think proper.

(3) In this Order "breach of the Regulations" includes the breach of any native or local law or custom, the observance of which is required by any King's Regulations.

**88.** Judicial notice shall be taken of this Order and of the commencement thereof, and of the appointment of the Political Resident, Political Agent, and the Assistant Judge, and of the constitution and limits of the Courts and districts and of the seals and signatures, and of any rules and regulations made or in force under this Order, and no proof shall be required of any of such matters.

**89.** The Court shall recognise and apply any reasonable custom existing in Kuwait, unless this Order contains some express and specific provision incompatible with the observance thereof.

**90.** Nothing in this Order shall—

(i) Affect any jurisdiction for the time being exercisable by the Court of the Political Resident under any Act of Parliament of the United Kingdom other than the Foreign Jurisdiction Act, 1890; or

(ii) Prevent the Court of the Political Agent from doing anything which His Majesty's Consuls in the dominions of any State in amity with His Majesty are for the time being by law, usage or sufferance entitled or enabled to do.

**91.** Not later than the 31st day of March in each year, or such other day as the Secretary of State directs from time to time, the Political Resident shall send to the Secretary of State a report on the operation of this Order up to the 31st day of December in the previous year, or such other date as the Secretary of State directs from time to time, showing for the preceding twelve months the number and nature of the proceedings, criminal and civil, taken under this Order, and the result thereof, and the number and amount of fees received, and such other information, and being in such form as the Secretary of State from time to time directs.

**92.**—(1) As from the commencement of this Order the Kuwait Order in Council, 1935, shall be repealed; but this repeal shall not—

(*a*) Affect the past operation of that Order or any appointment made, or any right, title, obligation, or liability accrued, or the validity or invalidity of anything done or suffered under that Order, before the making of this Order;

(*b*) Interfere with the institution or prosecution of any proceeding or action, criminal or civil, in respect of any offence committed against or forfeiture incurred or liability accrued under or in consequence of any provision of that Order or any regulation confirmed by any such Order or made thereunder;

(*c*) Take away or abridge any protection or benefit given or to be enjoyed in relation thereto.

(2) Notwithstanding the repeal of the Order aforesaid, all rules and regulations approved or confirmed by or under such Order so repealed shall continue and be as if this Order had not been made; but so that the same may be revoked, altered, or otherwise dealt with under this Order, as if they had been made under this Order.

(3) Criminal or civil proceedings begun under the Order repealed by this Order, and pending at the time when this Order comes into operation, shall, from and after that time, be regulated by the provisions of this Order, as far as the nature and circumstances of each case admit.

**93.**—(1) A printed copy of this Order, and of all Rules of Procedure and other Rules for the time being in force under this Order, shall be kept open to inspection free of charge in the Office of the Political Agent and of each Court established under this Order.

(2) Printed copies thereof shall be sold in Kuwait at such reasonable price as the Political Agent from time to time directs.

**94.** This Order shall be laid before Parliament and shall come into force on 12th April, 1949.

The Right Honourable Ernest Bevin, His Majesty's Principal Secretary of State for Foreign Affairs is to give the necessary directions herein.

*E. C. E. Leadbitter.*

## SCHEDULE

### Indian Acts applied

The Indian Penal Code, 1860 (Act XLV of 1860).

The Indian Divorce Act, 1869 (Act IV of 1869), except so much as relates to divorce and nullity of marriage.

The Bombay Civil Courts Act, 1869 (Act XIV of 1869), except sections 6, 15, 23, 32, 33, 34, 38 to 43 (both inclusive), the last clause of section 19, and the last two clauses of section 22.

The Indian Court Fees Act, 1870 (Act VII of 1870).

The Indian Evidence Act, 1872 (Act I of 1872).

The Indian Contract Act, 1872 (Act IX of 1872).

The Indian Christian Marriage Act, 1872 (Act XV of 1872).

The Indian Oaths Act, 1873 (Act X of 1873).

The Indian Majority Act, 1875 (Act IX of 1875).

The Births, Deaths and Marriages Registration Act of 1886 (Act VI of 1886).

The Provincial Small Cause Courts Act, 1887 (Act IX of 1887).

The Prevention of Cruelty to Animals Act, 1890 (Act XI of 1890).

The Code of Criminal Procedure, 1898 (Act V of 1898), except Chapter XXXIII.

So much of the Indian Post Office Act, 1898 (Act VI of 1898), as relates to offences against the Post Office.

The Code of Civil Procedure, 1908 (Act V of 1908).

The Indian Limitation Act, 1908 (Act IX of 1908), so far as it applies to appeals and applications.

The Whipping Act, 1909 (Act IV of 1909).

The Indian Lunacy Act, 1912 (Act IV of 1912).

The Indian Companies Act, 1913 (Act VII of 1913).

The Indian Merchant Shipping Act, 1923 (Act XXI of 1923), Part IV, except Sections 174 to 192, inclusive, and sub-section 3 of Section 213.

The Indian Succession Act, 1925 (Act XXXIX of 1925).

And the enactments relating to insolvency and bankruptcy in force in the Presidency of Bombay beyond the limits of the ordinary original jurisdiction of the High Court of Judicature of Bombay.

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## EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

1. This Order-in-Council relating to Kuwait should be read with the Orders relating to Bahrein, Qatar, Muscat, and the Trucial States which were made at the same time as this Order.

2. In the territory of all these States, by agreement with their rulers, His Majesty exercises jurisdiction over certain persons and property. The extent of this jurisdiction varies slightly in the different States. This jurisdiction has been exercised under Order-in-Council made for each State or the Trucial States group under the Foreign Jurisdiction Act, 1890.

3. The Orders were *mutatis mutandis* the same for each State or group of States and have a certain unity arising from the fact that the Political Resident in the Persian Gulf is His Majesty's Principal Representative and is also the Chief Judge of the superior Court in each State or group of States.

4. Prior to 14th August, 1947, the Governor-General of India exercised a number of powers under these Orders-in-Council, and the Indian Codes were the foundation of the law applied in these territories. After the entry into force of the Indian Independence Act, 1947, it was decided that the Orders must be amended to transfer elsewhere all powers hitherto exercised by the Governor-General of India, and this is one of the principal objects to be achieved by the present Order and similar ones made for the other Persian Gulf States.

5. At the same time it was decided to make certain minor changes in the constitution of the Courts set up under the Orders and in particular to provide :—

(i) for a professional legal judge to sit in the Superior Court as assistant judge to the Political Resident :

(ii) for a suitable Court of Appeal on which professional judges would sit, chosen *ad hoc* from a panel consisting of the Judges of the High Courts of Cyprus and Kenya and members of the Bar of England, Scotland and Northern Ireland of not less than 9 years standing.

6. Finally it was desired to provide that a case occurring in any one of the States could, when desirable, be transferred for trial in any other and that persons sentenced to imprisonment by the court in any one of the States could be removed to serve his sentence in any other of the States.