

*North Atlantic Treaty*

where we stand. Is there anything in this legislation which will contravene the agreement of 1941? As the negotiations are not completed, if the parliamentary assistant will give me assurance that this legislation will not prejudice our case I shall let the matter stand. The United States forces have been in Newfoundland for some time, and I understand that they are to be there for ninety-nine years. The relations between the United States forces and ourselves have been most cordial, and I would hate to see anything conflict with them.

**Mr. Campney:** It is my understanding that there may be some slight clash with the original agreement to which my hon. friend has referred. That is one of the things now under discussion by the parties to the original agreement. We cannot by a unilateral statute abrogate that other agreement; that will have to be done by mutual consent. I take it that it would be only after the parties thereto have reached agreement that the conflicts created by this legislation would be resolved.

**Section agreed to.**

Sections 6 to 9 inclusive agreed to.

On section 10—*Sentences.*

**Mr. Herridge:** Like the hon. member for Fraser Valley I am not a lawyer, but I would like the parliamentary assistant to explain this section. It reads in part:

(a) the service court shall be deemed to have been properly constituted;

(b) its proceedings shall be deemed to have been regularly conducted;

(c) the sentence shall be deemed to have been within the jurisdiction of the service court and in accordance with the law of the associated state; and

(d) if the sentence has been executed according to the tenor thereof, it shall be deemed to have been lawfully executed.

That means that if a man was improperly hanged, it shall be deemed to have been properly done.

**Mr. Campney:** This clause will permit visiting forces to deal with their own service personnel as though they were in their own country. While not exactly similar word for word, this section practically conforms to the wording of a similar section in the Visiting Forces (British Commonwealth) Act and in the Visiting Forces (United States of America) Act. It is a comprehensive section enabling the visiting forces to deal with their own personnel in another country without interference from the country in which the trial is taking place.

**Mr. Fulton:** I understand the hon. member for Kootenay West wishes to press this matter a little further, but before he does so

[Mr. Stick.]

I should like to ask the parliamentary assistant whether in the absence of some expression making it clear that you are entitled to disprove the presumption which is created, the effect of this section would be to prevent you from disproving it. The section reads:

Where any sentence has been passed by a service court within or without Canada upon a member of the navy, army or air force of an associated state, for the purposes of any legal proceedings within Canada

(a) the service court shall be deemed to have been properly constituted;

And so on. These things will all be deemed to have been done. It seems to me that this section has the force of an irrebuttable presumption. It would appear to me that great injustices could ensue because a service court of an associated state might commit a grave error in justice. Conceivably a year or eighteen months later that might be found out, but in the meantime the proceedings taken in Canada leading to the sentence or verdict of the court will be presumed to have been proper. Some words should be inserted to provide that, unless the contrary be affirmatively proved, it shall be deemed to have been in order. That would leave the door open in the event of a miscarriage of justice.

**Mr. Campney:** The purport of subsection 1 is to create an irrebuttable presumption as the hon. member has said, but it is based on the fact that it has been mutually deemed not advisable by the different nations which are now associated to interfere in the carrying out of justice each according to its own law and its own practice and procedure in respect of its own service personnel. I think the meaning of the provision that the service court shall be deemed to have been properly constituted is that it applies only as far as Canadian law is concerned. It is still open to dispute under the laws of the country carrying out the trial. The whole section is based on the principle that one nation will not interfere with another in the conduct of its own courts dealing with its own personnel.

**Mr. Fulton:** That object is desirable, but surely the section goes far beyond that. It enables the government of an associated state to carry out in Canada with respect to its nationals the results of a finding by its service court. Let me give you an illustration, as I see it. Let us say that sentence has been passed by the service court of an associated state upon one of the members of its forces who owns property within Canada, and proceedings are instituted with respect to the property in Canada of the member of the associated state's