

19, 1960

Att. G. 1

IN THE PRIVY COUNCIL

No. 43 of 1959

ON APPEAL FROM THE SUPREME COURT OF ST. HELENA

B E T W E E N : ABDUL RAHMAN AL BAKER
Appellant

- and -

ROBERT EDMUND ALFORD and
PATRICK VINCENT TRUEBODY
Respondents

UNIVERSITY OF LONDON
W.C.1.
- 7 FEB 1961
INSTITUTE OF ADVANCED
LEGAL STUDIES

F 0059

CASE FOR THE RESPONDENTS

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p. 38

10 1. This is an appeal from an order, dated the
20th March, 1959, of the Supreme Court of St.
Helena (Brett C.J.), dismissing a summons for an
order that a writ of habeas corpus ad subjiciendum
be issued to have the body of the Appellant
before a judge in chambers.

20 2. This appeal is concerned with the legality of
the imprisonment of the Appellant in St. Helena.
He was sentenced in Bahrain to fourteen years'
imprisonment by a special court appointed by the
Ruler of Bahrain, and conveyed to St. Helena to
undergo that imprisonment under the terms of the
Colonial Prisoners Removal Act, 1869, Bahrain is
a British protected state in the Persian Gulf, in
which Her Majesty the Queen possesses certain
jurisdiction. Provision for the exercise of this
jurisdiction by Her Majesty is made by Order in
Council (at all material times, the Bahrain Order,
1952, now replaced by the Bahrain Order, 1959)
made under the Foreign Jurisdiction Acts, 1890 and
30 1913. Pursuant to the provisions of those Acts, the
Colonial Prisoners Removal Act, 1869, with certain
modifications was extended to Bahrain by the
Bahrain (Removal of Prisoners) Order 1956. By
the Prisoners Removal (Bahrain and St. Helena)
Order, 1956, made under the Colonial Prisoners
Removal Act, 1869, the Ruler of Bahrain and the
Governor of St. Helena were authorised by Her
Majesty to enter into an agreement under that Act
for the removal of prisoners (not being persons

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subject to the Bahrain Order, 1952) from Bahrain to St. Helena and for their return.

3. The relevant provisions of these statutes and Orders in Council are :-

Colonial Prisoners Removal Act 1869

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4. Any two colonies may, with the sanction of an Order of Her Majesty in Council, agree for the removal of any prisoners under sentence or order of transportation, imprisonment, or penal servitude from one of such colonies to the other for the purpose of their undergoing in such other colony the whole or any part of their punishment, and for the return of such prisoners to the former colony at the expiration of their punishment, or at such other period as may be agreed upon, upon such terms and subject to such conditions as may seem good to the said colonies. 10

The sanction of the order of Her Majesty in Council may be obtained, in the case of a colony having a legislative body, on an address of such body to Her Majesty, and in the case of any colony not having a legislative body, on an address of the governor of such colony; and such sanction shall be in force as soon as such order in council has been published in the colony to which it relates. 20

The agreement of any one colony with another shall for the purposes of this Act be testified by a writing under the hand of the governor of such colony. 30

5. Where the sanction of Her Majesty has been given to any such agreement as aforesaid relating to the removal of prisoners from one colony to another for the purpose of undergoing their punishment, any prisoners under sentence or order of transportation, imprisonment, or penal servitude may be removed from such one colony to the other under the authority of a warrant signed by the governor, and addressed to the master of any ship, or any other person or persons; and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to such other colony, and to deliver him when there into the custody of any authority designated in such warrant, or empowered by the governor of such last-mentioned colony to receive such prisoner. 40

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7. Every prisoner shall, upon his delivery to the person having lawful authority to receive him in the colony to which he is removed, be subject within such colony to the same laws and regulations, and shall be dealt with in all respects in the same manner, as if he had been tried and received the same sentence in such colony as the sentence which has been passed on him in the colony from which he is removed.

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Foreign Jurisdiction Act, 1890

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1. It is and shall be lawful for Her Majesty the Queen to hold, exercise, and enjoy any jurisdiction which Her Majesty now has or may at any time hereafter have within a foreign country in the same and as ample a manner as if Her Majesty had acquired that jurisdiction by the cession or conquest of territory.

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2. Where a foreign country is not subject to any government from whom Her Majesty the Queen might obtain jurisdiction in the manner recited by this Act, Her Majesty shall by virtue of this Act have jurisdiction over Her Majesty's subjects for the time being resident in or resorting to that country, and that jurisdiction shall be jurisdiction of Her Majesty in a foreign country within the meaning of the other provisions of this Act.

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3. Every act and thing done in pursuance of any jurisdiction of Her Majesty in a foreign country shall be as valid as if it had been done according to the local law then in force in that country.

.....

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5. (1) It shall be lawful for Her Majesty the Queen in Council, if She thinks fit, by Order to direct that all or any of the enactments described in the First Schedule to this Act, or any enactments for the time being in force amending or substituted for the same, shall extend, with or without any exceptions, adaptations, or modifications in the Order mentioned, to any foreign country in which for the time being Her Majesty has jurisdiction.

(2) Thereupon those enactments shall, to the extent of that jurisdiction, operate as if that

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country were a British possession, and as if Her Majesty in Council were the legislature of that possession.

.....

11. Every Order in Council made in pursuance of this Act shall be laid before both Houses of Parliament forthwith after it is made, if Parliament be then in session, and if not, forthwith after the commencement of the then next session of Parliament, and shall have effect as if it were enacted in this Act.

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16. In this Act, -

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The expression "jurisdiction" includes power.

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Note: By the Foreign Jurisdiction Act, 1913 the Colonial Prisoners Removal Act, 1869 was added to the enactments described in the first schedule to the Foreign Jurisdiction Act, 1890.

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Bahrain Order, 1952 (S.I. 1952 No.2108)

1. This Order may be cited as the Bahrain Order, 1952.

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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 :-

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"Bahrain subject" means a subject of the Ruler of Bahrain.

.....

"Persons subject to this Order" means those persons to whom the powers conferred by this Order extend in accordance with Article 8 (1). "Persons not subject to this Order" means those persons referred to in Article 8 (1) (a) or (b).

.....

8. The powers conferred by this Order shall extend to the persons and matters following :-

(1) All persons, except the following :-

(a) individuals who are Bahrain subjects and corporations which are incorporated under a law enacted by the Ruler;

(b) individuals who are subjects of the Rulers of Saudi Arabia, the Yemen, Muscat and Oman, Kuwait, Qatar or any of the Trucial States.

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14. (1) For the purposes of the exercise of jurisdiction under this Order there shall be constituted and maintained :-

(i) Her Britannic Majesty's Court for Bahrain (hereinafter referred to as the Court for Bahrain)

(ii) Her Britannic Majesty's Chief Court for the Persian Gulf (hereinafter referred to as the Chief Court)

(iii) Her Britannic Majesty's Full Court for the Persian Gulf (hereinafter referred to as the Full Court)

(iv) The Joint Court and the Joint Court of Appeal referred to in Part VIII of this Order.

(2)

(ii) Subject to the provisions of Part VIII of this Order, all Her Majesty's jurisdiction in Bahrain, civil and criminal, not under this Order vested exclusively in the Chief Court shall be vested in the Court for Bahrain.

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67. (1) For the purposes of the exercise of

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jurisdiction in cases civil and criminal in which both persons not subject to this Order and persons subject to this Order are parties, herein described as Mixed Cases, or in which any person not subject to this Order whom the Political Agent at his discretion registers as being in the regular service of a person subject to this Order is a party there shall be constituted a Joint Court.

(2) However, with the concurrence of the Political Resident and notwithstanding any other provision of this Part of the Order, any mixed case or class of mixed case may be tried by the Courts within the general jurisdiction of which the accused or defendant is.

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(3) The Joint Court shall be composed of either a Judge or the Registrar of the Court for Bahrain and the Ruler or any official appointed by him.

68. (1) When a person not subject to this Order is alleged to have committed an offence in relation to a person subject to this Order, or a person subject to this Order is alleged to have committed an offence in relation to a person not subject to this Order, the Court for Bahrain shall entertain the same and send it to the Joint Court unless the case falls within Article 67(2).

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(2) Nothing in this Article shall prevent the Political Resident from exercising the revisory powers possessed by him under Article 4 of the Convention with the Ruler, dated the thirty-first day of May, eighteen hundred and sixty-one.

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70. (3) An appeal from the decision of the Joint Court shall be heard by the Joint Court of Appeal and, subject, in the case of a person subject to this Order who is convicted of a criminal offence, to the right of that person to apply to Her Majesty in Council, the decisions of that Court shall be final.

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Bahrain (Removal of Prisoners) Order, 1956

(S.I. 1956 No. 2031)

1. This Order may be cited as the Bahrain (Removal of Prisoners) Order, 1956, and shall come into force on the nineteenth day of December, nineteen hundred and fifty-six.

2. The Colonial Prisoners Removal Act, 1869, is hereby extended to Bahrain.

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3. (1) In the application of the Colonial Prisoners Removal Act 1869 to persons subject to the Bahrain Order, 1952, as from time to time amended, references to the "governor" shall be construed as references to the Political Resident, and in its application to other persons, such references shall be construed as references to the Ruler of Bahrain.

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(2) For the purposes of paragraph one of this Article, the expressions "Political Resident" and "Ruler of Bahrain" have the respective meanings assigned to them by the Bahrain Order, 1952, as from time to time amended.

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Prisoners Removal (Bahrain and St. Helena)
Order, 1956

(S.I. 1956 No. 2032)

1. This Order may be cited as the Prisoners Removal (Bahrain and St. Helena) Order, 1956.

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2. The sanction of Her Majesty is hereby given in order that the Ruler of Bahrain and the Governor of St. Helena may in accordance with section four of the Colonial Prisoners Removal Act, 1869, (which extends to Bahrain by virtue of the Bahrain (Removal of Prisoners) Order, 1956) enter into an agreement for the removal of prisoners (not being persons subject to the Bahrain Order, 1952, as from time to time amended) from Bahrain to the Colony of St. Helena and for their return.

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4. An application that the Appellant might be released forthwith, or that a summons for a writ of habeas corpus might be issued on his behalf, was made to the Supreme Court of St. Helena on the 10th June, 1958, by one Bernard Sheridan, a solicitor of

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pp. 2-4

London. The grounds of the application were that the Appellant was not a person to whom the provisions of the Colonial Prisoners Removal Act, 1869, applied, and was therefore illegally deported to St. Helena and illegally detained there. An affidavit by Mr. Sheridan, affirmed on the 10th June, 1958, accompanying the application alleged that the Appellant was a subject of the Ruler of Bahrain and was at all material times before his imprisonment resident in Bahrain; that the Appellant, together with four other persons also subjects of the Ruler of Bahrain, had been put on trial on the 22nd and 23rd December, 1956, before a Court sitting at Budeya in Bahrain charged (amongst other matters with plotting to assassinate the Ruler and his political adviser, one Charles Dalrymple Belgrave, who was a person subject to the Bahrain Order, 1952; that the Court had been a Court of the Ruler of Bahrain, not a Court set up under the provisions of the Bahrain Order; that the charge against the Appellant and the other prisoners had therefore not been legally triable in the said Court; that the Court had purported to convict the Appellant and had sentenced him to 14 years' imprisonment; that on the 28th December, 1956, he had been delivered into the custody of the commanding officer of a British frigate on a warrant of the Ruler of Bahrain; and that he had been taken in the frigate to St. Helena, where he had since remained in custody.

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pp. 4-5

5. On the 15th October, 1958, the Appellant swore an affidavit, ratifying the application to the Supreme Court and verifying Mr. Sheridan's affidavit.

pp.16-25

p.16, 11
20-34

6. The application came before Brett, C.J. on the 17th, 18th and 19th March, 1959. An affidavit of Sir Charles Dalrymple Belgrave was put in evidence on behalf of the Respondents. Sir Charles said that he had been adviser to the Ruler of Bahrain and a Judge of the Ruler's Courts from 1927 to 1956. The Ruler was the supreme legislative, executive and judicial authority of Bahrain, except in matters in which Her Majesty the Queen had jurisdiction. He could delegate his judicial function as he chose, and had created permanent Courts to which all cases, except those within Her Majesty's jurisdiction, went, but he retained power to appoint a special court for the trial of any particular case and to prescribe where it should sit. The Appellant and four other men had been arrested on the 2nd and 6th November, 1956, after serious disturbances in

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p.16,1.35-
p.17,1.8

p.17,11.9-31

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Bahrain. On the 1st December, 1956 Sir Charles, acting on behalf of the Ruler, had told Sir Bernard Burrows, H.M's Political Resident in the Persian Gulf, that these five men were to be tried for sedition or treason, and had asked whether Her Majesty's Government, if they were sentenced to imprisonment, would arrange for them to serve their sentences in a British possession. On the 18th December, 1956 the Political Resident had told Sir Charles that Her Majesty's Government was willing to do so, and the Government of St. Helena was willing to receive the men, should they be sentenced to imprisonment. On the same day Sir Charles had handed to the Political Resident a document under the hand and seal of the Ruler. This was a request from the Ruler to Her Majesty the Queen for permission to make arrangements with the Governor of St. Helena for the reception of persons sent to St. Helena 'in accordance with the sentence decided'.

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7. Sir Charles Belgrave's affidavit went on to set out the charges against the Appellant and the four other men arrested. These included the charge of attempting to assassinate Sir Charles himself. Sir Charles said that the Appellant was a subject of the Ruler of Qatar, and so a person not subject to the Bahrain Order, while he had himself at the material time been a person subject to that Order. The prosecution had therefore been a 'mixed case' within the meaning of article 67(2) of the Order. Under that sub-section, the Political Resident had concurred in the trial of such mixed cases by the court within the jurisdiction of which the accused was.

p.17,1.32-
p.18,1.15

p.18,11.16-
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8. In exercise of his powers, the Ruler had on the 22nd December, 1956, appointed a special court, to try the Appellant and the others arrested with him, consisting of three judges of the Ruler's Courts. Sir Charles had been informed on the 23rd December, 1956 by one of these judges that all the men had been convicted and sentenced to various terms of imprisonment, the Appellant's being 14 years' imprisonment. On the 26th December 1956 he had handed to the Political Resident a document executed by the Ruler of Bahrain, testifying to the agreement of the Ruler to the removal of the Appellant and two other men to St. Helena for a term of 14 years' imprisonment. The Appellant had not exercised the right of appeal to the Ruler which he possessed. On the 28th December, 1956 the Appellant and two of the men convicted with him had been delivered into

p.18,1.36-
p.19,1.7

p.19,11.8-
p.12
pp. 23-24

p.19,11.
13-18
p.19,11
19-24

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- pp.24-25 the custody of the commanding officer of H.M.S. 'Loch Insh' under a warrant issued by the Ruler, authorising that officer to receive them and convey them to St. Helena and there to deliver them to the Governor or his representative.
- pp.11-16 9. An affidavit of Sir James Dundas Harford was put in evidence on behalf of the Respondents. He said that he had been Governor of St. Helena from October, 1953 until April, 1958. On the 18th December, 1956 he had submitted an address to Her Majesty the Queen, reciting the desire of the Ruler of Bahrain that arrangements should be made for the removal of certain prisoners from Bahrain to St. Helena, and praying that sanction be given by Order in Council to the making of these arrangements in pursuance of the Colonial Prisoners Removal Act, 1869. The Prisoners Removal (Bahrain and St. Helena) Order, 1956 had been published in the St. Helena Government Gazette on the 22nd December, 1956. He had sent a despatch, testifying his agreement to the detention in St. Helena of five Bahrain subjects removed from Bahrain, to the Secretary of State for the Colonies on the 24th December, 1956. On the 27th January, 1957 three prisoners, of whom the Appellant had been one, had arrived at St. Helena in H.M.S. 'Loch Insh' They had been delivered to the Superintendent of Police and Prisons, whom Sir James had empowered to receive them. These prisoners had still been detained in St. Helena on the 1st January, 1958, when Sir James had left the Island.
- p.11,11. 21-24; pp.12-13 10
- p.11,11 25-30 20
- p.11,11 31-34; pp.15-16 30
- p.12,11.1-9 30
- pp.27-30 10. Affidavits sworn by the first and second Respondents respectively were also put in. The first Respondent said he was, and had been since February, 1958, Governor of St. Helena. The Appellant was detained at Mundens, in St. Helena, in the custody of the second Respondent by virtue of a warrant issued by the first Respondent's command on the 22nd December, 1958. The second Respondent, the Superintendent of Gaols of St. Helena, exhibited this warrant to his affidavit.
- pp.25-27 40
- pp.10-11 11. An affidavit of Mr. C.A. Gault, the Political Agent in Bahrain, proved that the Prisoners Removal (Bahrain and St. Helena) Order, 1956 was published in Bahrain by being posted on the official notice board at the Political Agency on the 28th December, 1956. An affidavit of Salim al Orrayedh, Registrar of the Bahrain Law Courts, was also put in, describing the trial of the Appellant and his co-accused in Bahrain.
- pp.9-10 50

12. Brett, C.J. gave judgment on the 20th March, 1959. He set out the facts and referred to the statutes and statutory instruments relevant to the case. He then set out the grounds upon which the Appellant contested the validity of his imprisonment in St. Helena, as follows :-

pp.31-37
pp.31-32

10 "(1) The Colonial Prisoners Removal Act, 1869 has no application because the applicant was never convicted by a court of competent jurisdiction in Bahrain.

p.33,11.
5-25

(2) Though the Act has been extended to Bahrain it cannot apply to the applicant because he was not convicted in the exercise of any jurisdiction of Her Majesty's in Bahrain.

(3) On the respondent's evidence there was no agreement for the removal of the respondent within the meaning of s.4 of the Act.

20 (4) If there were an agreement between the Ruler of Bahrain and the Governor it does not apply to the applicant.

30 (5) The warrant under authority of which the applicant was delivered to the custody of the captain of H.M.S. Loch Insh was not valid under the Colonial Prisoners Removal Act because it was executed by the Ruler of Bahrain before the Order sanctioning the agreement had come into force in Bahrain under s.4 of the Act."

40 13. The learned Chief Justice said that the principal argument for the Appellant on the first ground was that Sir Charles Belgrave had not been a party in the case so as to make it a mixed case within the meaning of the Bahrain Order, 1952, article 67(1); and the only permissible procedure would have been for the Court for Bahrain to send the case to the Joint Court established under Article 67. It had been contended that a criminal case was a mixed case only if the original charge was brought against two or more persons of whom at least one was, and one was not, a person subject to the Order. The learned Chief Justice rejected this submission. He was satisfied that these articles did not bear the meaning for which the Appellant contended, and the notification executed by the

p.33,1.37-
p.34,1.9

p.34,11.
9-22

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Political Resident on the 23rd February, 1953 (exhibited to Sir Charles Belgrave's affidavit) removed any bar to the exercise by the special court of its jurisdiction to deal with the offence involving Sir Charles Belgrave.

- p.34,11.23-48 14. Dealing with the second ground, Brett, C.J. said the Bahrain (Removal of Prisoners) Order, 1956 was certainly intended to enable persons not subject to the Bahrain Order to be removed, for it provided that in relation to them references in the Colonial Prisoners Removal Act to the 'governor' should be construed as references to the Ruler of Bahrain. Counsel for the Appellant, however, had submitted that the Order did not apply to anyone who had not been convicted in the exercise of Her Majesty's jurisdiction in Bahrain. If it did purport so to apply, it went, in counsel's submission, beyond the powers conferred by s.5 of the Foreign Jurisdiction Act, and was 'ultra vires'. The learned Chief Justice held that the Bahrain (Removal of Prisoners) Order, 1956, the Prisoners Removal (Bahrain and St. Helena) Order, 1956 and the agreement sanctioned by the latter Order all referred, on their natural interpretation, to prisoners not subject to the Bahrain Order, whatever the court by which they might have been convicted. Such being the effect of the Bahrain (Removal of Prisoners) Order, he had to decide whether it was validly made under s.5 of the Foreign Jurisdiction Act. The word 'jurisdiction' in s. 5, the learned Chief Justice concluded, was not confined to jurisdiction exercised by civil and criminal courts, but referred, as the Respondents had submitted, to legislative power; and both sides agreed that he was precluded from inquiring into the extent of Her Majesty's legislative power in Bahrain. The Appellant's contentions on this ground therefore failed. 10
- p.34,1.49-
p.35,1.43 20
- p.35,1.44-
p.36,1.6 15. As to the third ground, Brett, C.J. held that the document executed on the 26th December, 1956 by the Ruler of Bahrain (exhibited to Sir Charles Belgrave's affidavit) and the document executed by the Governor of St. Helena on the 24th December, 1956 (exhibited to Sir James Harford's affidavit) constituted, under the terms of the Colonial Prisoners Removal Act, 1869, s.4., sufficient testimony to an agreement between Bahrain and St. Helena. 30
- p.36,11.7-27 16. The fourth ground concerned the wording of the 40

document executed by Sir James Harford on the 24th December, 1956, which only expressed his agreement to the detention of 'five Bahrain subjects'. Mr. Sheridan's statutory declaration described the Appellant as a subject of the Ruler of Bahrain, but Sir Charles Belgrave said he was a subject of the Ruler of Qatar. The learned Chief Justice found himself unable to decide whose subject the Appellant was, but held that the agreement identified him with sufficient certainty. In deciding this, he was entitled to look outside the terms of the document of the 24th December, 1956. Sir Charles Belgrave's affidavit made it clear that the Appellant was one of the persons whom the Ruler wished to have removed. In view of the terms of Sir James Harford's address to the Queen as well as the document signifying his agreement, the identification of the Appellant was sufficiently precise to satisfy the requirements of the law.

p.36, l.28-
p.37, l.13

17. On the fifth ground, the learned Chief Justice held that, in the circumstances, the Appellant's imprisonment in St. Helena could not, at that stage at least, be challenged because of the date the warrant bore.

p.37, l.1.
14-38

18. The Respondents respectfully submit that the question whether the Appellant was convicted by a court of competent jurisdiction depends upon the interpretation of the Bahrain Order, 1952. The interpretation of this Order is a matter of the law of Bahrain, i.e. a matter of foreign law which the Supreme Court of St. Helena could determine only upon the evidence of an expert. The only such evidence put forward was that of Sir Charles Belgrave, who said the prosecution was a 'mixed case' within the meaning of article 67(2) of the Order. No other finding, therefore, was open to the Supreme Court. Alternatively, the Respondents submit that article 68(1) expressly contemplates that cases falling within it may also fall within article 67(2). Accordingly, the two articles must be read together, and it follows that the expression 'mixed case' in article 67(2) includes a case falling under article 68(1). The prosecution of the Appellant and his co-accused was, therefore, a 'mixed case' and, in view of the Notification of the 2nd February, 1953, was properly tried by the special court appointed by the Ruler. On the Appellant's view a criminal case can be a 'mixed case' only if there are at least two accused; and this is inconsistent with the use of the singular in articles 67(2) and 68(1).

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19. The Respondents respectfully submit that the Colonial Prisoners Removal Act, 1869 was properly applied to the Appellant. It was extended to Bahrain by the Bahrain (Removal of Prisoners) Order 1956 which so extended it with reference both to persons subject to the Bahrain Order, 1952 and to persons not so subject. It was thus extended by virtue of the powers vested in Her Majesty by the Foreign Jurisdiction Act, 1890, s.5. It is submitted that it was properly extended to persons not subject to the Bahrain Order, 1952, in that the word 'jurisdiction' throughout the Act, including as it does 'power', refers to the legislative powers of Her Majesty, and does not confine the operation of an extended enactment to whatever criminal and civil jurisdiction may be exercised by the courts of Her Majesty in the territory in question. It is clear that the Ruler of Bahrain conferred upon Her Majesty legislative power to extend to Bahrain the Act of 1869. Under s.4 of the Foreign Jurisdiction Act, the Courts must follow the decision of the Secretary of State as to the extent of any jurisdiction of Her Majesty; which indicates that throughout the Act the expression 'jurisdiction' is used with reference to legislative power.

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20. The Respondents respectfully submit that the Ruler of Bahrain and the Governor of St. Helena agreed upon the removal of the Appellant within the meaning of the Colonial Prisoners Removal Act, 1869; s.4. What must be shown in order to satisfy s.4 is the fact of agreement to the removal, and not a formal document or communication. The learned Chief Justice was therefore correct in finding sufficient evidence of agreement in the documents put in evidence.

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21. The Respondents respectfully submit that the agreement so evidenced between the Ruler and the Governor clearly referred to the Appellant. The document executed by the Ruler testifying the agreement expressly mentioned the Appellant. As to the document executed by the Governor, the learned Chief Justice was right in holding himself entitled to look beyond its terms in interpreting it, and right in holding that, on such an interpretation, the five persons whom it mentioned could only be the Appellant and his four co-accused.

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22. The Respondents respectfully submit that the warrant under which the Appellant was delivered into the custody of the captain of H.M.S. 'Loch Insh' was

a valid warrant, having been issued after the publication in Bahrain of the Prisoners Removal (Bahrain and St. Helena) Order, 1956. Furthermore, after the arrival of the Appellant in St. Helena the legality of his detention could not be affected by any defect of that warrant.

23. The Respondents respectfully submit that the order of the Supreme Court of St. Helena was right and ought to be affirmed, and this appeal ought to be dismissed, for the following (among other)

R E A S O N S

1. BECAUSE the Bahrain (Removal of Prisoners) Order, 1956 applies to any person convicted by any court of competent jurisdiction in Bahrain;
2. BECAUSE that order was validly made under the Foreign Jurisdiction Act, 1890;
3. BECAUSE the special court had jurisdiction to try the Appellant;
4. BECAUSE the evidence established that, in pursuance of the Prisoners Removal (Bahrain and St. Helena) Order, 1956, the Ruler of Bahrain and the Governor of St. Helena had made an agreement for the removal of the Appellant;
5. BECAUSE the detention of the Appellant in St. Helena is legal in every respect;
6. BECAUSE the application of the 10th June, 1958 was based upon the ground that the Appellant was not a person to whom the Colonial Prisoners Removal Act, 1869 applied, and because that Act did apply to the Appellant;
7. BECAUSE Brett, C.J. rightly rejected the grounds for the Appellant's release set forth in the affidavit of the 10th June, 1958;
8. BECAUSE of the other reasons given by Brett, C.J.

B. MacKenna

J.G. Le Quesne

IN THE PRIVY COUNCIL

ON APPEAL FROM

THE SUPREME COURT OF ST. HELENA

B E T W E E N :

ABDUL RAHMAN AL BAKER Appellant

-- and --

ROBERT EDMUND ALFORD and PATRICK
VINCENT TRUEBODY Respondents

CASE FOR THE RESPONDENTS

CHARLES RUSSELL & CO.,
37 Norfolk Street,
Strand,
London, W.C.2.

Solicitors for the Respondents.