

IN THE PRIVY COUNCIL

19, 1960

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

RECORD OF PROCEEDINGS

BERNARD SHERIDAN & CO.,
14, Red Lion Square,
W.C.1.
Solicitors for the Appellant.

CHARLES RUSSELL & CO.,
37, Norfolk Street,
Strand, W.C.2.
Solicitors for the Respondents.

IN THE PRIVY COUNCILNo. 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 1959 INSTITUTE OF ADVANCED LEGAL STUDIES
--

FC 957

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description of Document	Date	Page
	<u>IN THE SUPREME COURT OF ST. HELENA</u>		
1	Application for a Writ of Habeas Corpus	10th June 1958	1
2	Affidavit of Bernard Sheridan in support	10th June 1958	2
3	Affidavit of Abdul Rahman Al Baker	15th October 1958	4
4	Order fixing hearing	20th October 1958	6
5	Order granting adjournment	22nd December 1958	7
6	Order granting adjournment	16th February 1959	8
7	Affidavit of Salim al Orrayedh	23rd February 1959	9
8	Affidavit of Charles Alexander Gault	23rd February 1959	10
9	Affidavit of Sir James Dundas Harford and exhibits thereto	26th February 1959	11

No.	Description of Document	Date	Page
10	Exhibit "J.D.H.1" - Address of Governor of St. Helena to Her Majesty the Queen	18th December 1956	12
	Exhibit "J.D.H.2" - St. Helena Government Gazette	22nd December 1956	13
	Exhibit "J.D.H.3" - Despatch from Governor of St. Helena to the Secretary of State for the Colonies	24th December 1956	15
	Affidavit of Sir Charles Dalrymple Belgrave and exhibits thereto	27th February 1959	16
	Exhibit "C.D.B.1" - Translation of Despatch from the Ruler of Bahrain to Her Majesty the Queen	18th December 1956	20
	Exhibit "C.D.B.2" - Notification on Trial of Mixed Cases made by Her Majesty's Political Resident, Persian Gulf	2nd February 1953	21
	Exhibit "C.D.B.3" - Translation of Order of Ruler of Bahrain convening Special Court	12th January 1959	22
	Exhibit "C.D.B.4" - Translation of Agreement for removal of prisoners to St. Helena	26th December 1956	23
	Exhibit "C.D.B.5" - Translation of Warrant for delivery of prisoners to St. Helena	26th December 1956	24
	11	Affidavit of Patrick Vincent Truebody and exhibit thereto	17th March 1959
Exhibit "P.V.T.1" - Warrant to keep Applicant in St. Helena		22nd December 1958	26

No.	Description of Document	Date	Page
12	Affidavit of Robert Edmund Alford and exhibits thereto	17th March 1959	27
	Exhibit "R.E.A.1" - St. Helena Government Gazette	31st December 1958	28
	Exhibit "R.E.A.2" - St. Helena Government Gazette	13th January 1959	30
13	Judgment of Chief Justice Brett	20th March 1959	31
14	Order dismissing Summons	20th March 1959	38
	<u>IN THE PRIVY COUNCIL</u>		
15	Order granting special leave to appeal to Her Majesty in Council	12th August 1959	39

LIST OF DOCUMENTS NOT TRANSMITTED

Description of Document
Exhibit "B.S.1" - Government of Bahrain Review 1956.
Exhibit "B.S.2" - Hansard Vol. 563 pp. 80-81.
Exhibit "B.S.3" - Hansard Vol. 563 pp. 110-111 and 127.
Exhibit "B.S.4" - Hansard Vol. 563 pp. 223-224.
Exhibit "C.A.G.1" - Supplement No.16 of the Persian Gulf Gazette dated April 1, 1957.
Exhibit "C.D.B.1" - Despatch from the Ruler of Bahrain to Her Majesty the Queen in Arabic language.

Description of Document
Exhibit "C.D.B.3" - Order of Ruler of Bahrain Convening Special Court in Arabic language.
Exhibit "C.D.B.4" - Agreement for removal of prisoners to St. Helena in Arabic language.

DOCUMENTS TRANSMITTED BUT NOT REPRODUCED

Description of Document	Date
Court Notes	17th-20th March 1959

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

RECORD OF PROCEEDINGS

10

No. 1

APPLICATION FOR A
WRIT OF HABEAS CORPUS

In the
Supreme Court
of St. Helena

No.1

IN THE SUPREME COURT OF ST. HELENA

ex parte ABDUL RAHMAN AL BAKER. Applicant.

Application
for a Writ of
Habeas Corpus,
10th June,
1958.

To His Excellency the Governor of St. Helena and
to the Superintendent of Gaols or such other
person as shall have the custody in fact of the
above-named Applicant, Abdul Rahman al Baker.

20

TAKE NOTICE that this Honourable Court is hereby
moved for an order that the above named Applicant
may be released forthwith or alternatively that a
summons for a writ of habeas corpus may be issued
on his behalf.

30

AND FURTHER TAKE NOTICE that the GROUNDS of this
application are that upon the facts of the case and
upon the true construction of the Bahrain Order for
1952 and of all other relative enactments or ordi-
nances the Applicant was not a person to whom the
provisions of the Colonial Prisoners Removal Act
1869 (as extended to Bahrain or otherwise) applied,
and the Applicant was accordingly illegally deported
to St. Helena, and was and is there illegally de-
tained.

In the
Supreme Court
of St. Helena

No.1

Application
for a Writ of
Habeas Corpus,
10th June,
1958 -
continued.

AND FURTHER TAKE NOTICE that the facts and matters material to this application are set out in a statutory declaration of Bernard Sheridan and the documents thereto exhibited, which declaration and exhibits accompany this application.

Dated this 10th of June 1958

Bernard Sheridan & Co.,
Solicitors to the Applicant
2, Parton Street,
Red Lion Square, W.C.1.

10

No.2

Affidavit of
Bernard
Sheridan in
Support,
10th June,
1958.

No. 2

AFFIDAVIT OF BERNARD SHERIDAN
IN SUPPORT

IN THE SUPREME COURT OF ST. HELENA

EX PARTE ABDUL RAHMAN AL BAKER Applicant

I, BERNARD SHERIDAN of 2 Parton Street, Red Lion Square, Holborn, London, W.C.1, practising at the above address as Bernard Sheridan & Co., do solemnly and sincerely declare that :-

1. I am a Solicitor of the Supreme Court of Judicature in London aforesaid, and my firm is instructed by Abdulla Rahman al Baker who now resides at Cairo, Egypt, to act on behalf of his Father Abdul Rahman al Baker (hereinafter called "the prisoner") who by reason of his detention hereinafter mentioned is in no position to communicate with my said firm or with any other legal advisor or otherwise to give instructions on his own behalf. 20

2. I am informed by the said Abdulla Rahman al Baker and verily believe that the prisoner is now detained in custody in St. Helena. 30

3. I am further informed, as hereinafter appears, and verily believe that all the material circumstances leading to the prisoner's detention in St. Helena are as follows :-

(i) The prisoner is a subject of the Ruler of Bahrain and at all material times before his imprisonment in St. Helena was resident in Bahrain.

(ii) Bahrain is not now and never has been a part of Her Majesty's Dominions and its status is that of an independent protected state. By usage and agreement cases concerning certain classes of persons resident in Bahrain are heard by Her Majesty's Courts in Bahrain. The cases to be tried by Her Majesty's Courts as aforesaid and the law to be applied are prescribed by Orders in Council and Queen's Regulations made thereunder and in particular by the Bahrain Order, 1952. Jurisdiction and legislative powers over all other persons within Bahrain are vested in the Ruler.

10

(iii) On or about 22nd and 23rd days of December 1956 the prisoner together with four other persons also subjects of the Ruler of Bahrain were put on trial before a Court sitting at Budeya in Bahrain aforesaid charged (amongst other matters) with plotting to assassinate the said Ruler and his political adviser one Charles Dalrymple Belgrave. The said Charles Dalrymple Belgrave is not and was not at the material time a subject of the said Ruler nor of any allegiance which made him otherwise than a person subject to the said Bahrain Order 1952.

20

(iv) The said Court consisted of three judges, His Excellency Shaikh Abdulla bin Isa, Shaikh Daij bin Hamed and Ali bin Ahmed and was a Court of the Ruler of Bahrain. It was not a Court set up under the provisions of the said Order or of any Order in Council. In the premises the aforementioned charge was one which was not legally triable in the said Court.

30

(v) Notwithstanding that the prisoner refused to admit the authority of the said Court and to make any statements or to examine any of the witnesses, the said Court purported to convict him and to pass upon him a sentence of 14 years imprisonment.

(vi) On the 28th day of December 1956 the prisoner was delivered into the custody of the commanding officer of a British frigate on a warrant of the Ruler of Bahrain and was taken in the said frigate to St. Helena aforesaid where he has since remained in custody as herein alleged.

40

4. My source of information and grounds of belief in respect of the said facts are statements made to me by the said Abdulla Rahman al Baker, statements made by the Government of Bahrain and answers given

In the
Supreme Court
of St. Helena

No.2

Affidavit of
Bernard
Sheridan in
Support,
10th June,
1958 -
continued.

In the
Supreme Court
of St. Helena

No.2

Affidavit of
Bernard
Sheridan in
Support,
10th June,
1958 -
continued.

by Ministers of the Crown to questions put to them in Parliament. I crave leave to refer to the Review of 1956 published by the Government of Bahrain (marked "B.S.I.") and to Hansard Vol.563 Written Answers Pages 80-81 (Marked "B.S.2") Pages 110-111 and 127 (Marked "B.S.3") and Pages 223-224 (Marked "B.S.4").

AND I make this Solemn Declaration conscientiously believing the same to be true and by virtue of the provisions of an Act entitled The Statutory Declarations Act, 1835.

10

DECLARED at 17 Red Lion
Square in the County of
London W.C.1. this 10th
day of June, 1958.

Bernard Sheridan.

Before me,

George Pritchard

A Commissioner for Oaths.

No.3

Affidavit of
Abdul Rahman
al Baker,
15th October,
1958.

No. 3

AFFIDAVIT OF ABDUL RAHMAN AL BAKER

20

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

I, ABDUL RAHMAN AL BAKER formerly of Bahrain, and at present detained in the Colony of St.Helena, the above-named Applicant, MAKE OATH and say as follows :-

1. Having been advised by English Counsel in London that my detention in St. Helena is unlawful, I desire to secure my immediate release.

2. It has recently come to my knowledge that an application therefor was made to this Honourable Court on my behalf on the instructions of my son Abdulla Rahman al Baker in anticipation of my said desire. There is now produced and shown to me, marked "A.R.B.I." what purports to be a true copy of a Notice of Application to this Honourable Court made in my name and dated the 10th June 1958.

30

3. I hereby ratify and confirm the Contents of the said Notice of Application as though the same had originally been made on my personal instructions.

In the
Supreme Court
of St. Helena

No.3

Affidavit of
Abdul Rahman
al Baker,
15th October,
1958 -
continued.

10 4. I further authorise Messrs. Bernard Sheridan & Co., Solicitors of 2, Parton Street, Red Lion Square, London, W.C.1, to act on my behalf herein and for such purpose to take instructions either from my said son or from one of my friends outside Bahrain to be nominated by him or from Mr. John Tunstall of The Overseas Club, St. James, London and at their discretion to instruct Counsel to appear for me herein. I hereby ratify and confirm all acts and things purporting to have been done herein on my behalf by the said Messrs. Bernard Sheridan & Co., or by Counsel acting on their instructions.

20 5. I have read what purports to be a true copy (now produced and shown to me together with the copy exhibits thereto tied together into a bundle marked "A.R.B.2.") of a Statutory Declaration made on the 10th June 1958 by Bernard Sheridan practising as Bernard Sheridan & Co., aforesaid in support of the said application. So far as the facts and matters therein set out are within my own knowledge they are true. So far as they are supplied on the knowledge, information and belief of the said Bernard Sheridan or are derived from or verified by the documents exhibited to the said Statutory Declaration, I verily believe them to be true.

30 6. I crave leave to refer to the contents of the said Statutory Declaration and of the documents exhibited thereto in support of my application herein, as though the same had been sworn herein.

7. I further authorise my aforementioned Solicitors to consent to the hearing of the application for my release by this Honourable Court sitting in any part of the world in which the said application can be most conveniently, cheaply and expeditiously heard.

40 SWORN by the above named }
ABDUL RAHMAN AL BAKER }
at Mundens, St. Helena }
this 15th day of October, }
1958 }

Abdul Rahman
AL BAKER

Before me,
R.E. Broadway, J.P.
A Commissioner for Oaths.

In the
Supreme Court
of St. Helena

No. 4

ORDER FIXING HEARING

No.4

IN THE SUPREME COURT OF ST. HELENA.

Order Fixing
Hearing,
20th October,
1958.

The Acting Chief Justice, Mr. G.A. Lewis, in
Chambers.

In the matter of an application by
BERNARD SHERIDAN, Solicitor, of 2
Parton Street, Red Lion Square, London,
England, for an Order that ABDUL RAHMAN
AL BAKER, at present detained at Mun-
den's, St. Helena, be released forth-
with or that alternatively that a sum-
mons for a writ of habeas corpus be
issued on his behalf:

10

Upon reading the application and the several
affidavits and documents attached thereto.

It is ordered that all parties concerned attend
the Acting Chief Justice in Chambers at the Supreme
Court on Monday, 29th December, 1958 at 10...o'clock
to show cause why a writ of habeas corpus should not
be issued directed to His Excellency the Governor of
St. Helena and the Superintendent of Gaols to have
the body of the said ABDUL RAHMAN AL BAKER alleged
to be illegally detained at Munden's in the Island
of St. Helena, before a judge in chambers immedi-
ately after the receipt of such a writ to undergo
and receive all and singular matters and things as
the judge shall then and there consider of concer-
ning the said ABDUL RAHMAN AL BAKER in this behalf.

20

Dated this 20th day of OCTOBER, 1958.

30

P.V. TRUEBODY

Registrar of the Supreme Court.

L. S.

To. His Excellency the Governor of St. Helena
Messrs. Bernard Sheridan, Solicitor,
2 Parton Street,
Red Lion Square,
London,
ENGLAND.

Superintendent of Gaols.

40

7.

Robert Alford, Governor

20th October, 1958

We acknowledge receipt of this Summons this 20th day of November, 1958.

Bernard Sheridan

Bernard Sheridan & Co.,
2, Parton Street,
London, W.C.1.

In the
Supreme Court
of St. Helena

No.4

Order Fixing
Hearing,
20th October,
1958 -
continued.

No. 5

ORDER GRANTING ADJOURNMENT

IN THE SUPREME COURT OF ST. HELENA

The Acting Chief Justice, Mr. G.A. Lewis, in Chambers, this 22nd day of December, 1958, at 10 a.m.

In the matter of an application by BERNARD SHERIDAN, Solicitor; of 2 Parton Street, Red Lion Square, London, England, for an Order that ABDUL RAHMAN AL BAKER at present detained at Munden's, St. Helena, be released forthwith or that alternatively that a summons for a writ of habeas corpus be issued on his behalf.

Major S.I. Strong appeared and sought the approval of the Acting Chief Justice under Rule 7 of the Supreme Court Rules to represent ABDUL RAHMAN AL BAKER.

The Honourable the Acting Chief Justice being satisfied that such approval was sought with the full consent of the said ABDUL RAHMAN AL BAKER, signified his approval.

His Excellency the Governor of St. Helena, R.E. Alford, Esq., C.M.G., appeared and sought the approval of the Acting Chief Justice under Rule 7 of the Supreme Court Rules to represent the Superintendent of Gaols, St. Helena.

No.5

Order granting
Adjournment,
22nd December,
1958.

10

20

30

In the
Supreme Court
of St. Helena

No.5

Order granting
Adjournment,
22nd December,
1958 -
continued.

The Honourable the Acting Chief Justice being satisfied that such approval was sought with the consent of the said Superintendent of Gaols, signified his approval.

His Excellency the Governor of St. Helena, R.E. Alford, Esq., C.M.G., on behalf of himself and the Superintendent of Gaols, St. Helena and Major S.I. Strong on behalf of ABDUL RAHMAN AL BAKER appeared and moved the Honourable Court for an adjournment of the hearing of the application set down for hearing on December 29th, 1958, at 10 a.m. and requested that an adjournment be granted to February 16th, 1959, at 10 a.m.

10

The Honourable the Acting Chief Justice being satisfied that there were good and sufficient reasons for granting such an adjournment accordingly granted the adjournment requested.

P.V. Truebody
Registrar of the Supreme
Court.

20

No.6

Order granting
Adjournment,
16th February,
1959.

No. 6

ORDER GRANTING ADJOURNMENT

IN THE SUPREME COURT OF ST. HELENA

The Acting Chief Justice Mr. G.A. Lewis in Chambers, this 16th day of February, 1959.

In the matter of an application by BERNARD SHERIDAN, Solicitor, of 2 Parton Street, Red Lion Square, London, England, for an Order that ABDUL RAHMAN AL BAKER at present detained at Munden's, St. Helena, be released forthwith or that alternatively that a summons for a writ of habeas corpus be issued on his behalf.

30

His Excellency the Governor of St. Helena, R.E. Alford, Esq., C.M.G. on behalf of himself and the Superintendent of Gaols, St. Helena and Major S.I. Strong on behalf of ABDUL RAHMAN AL BAKER appeared and moved the Honourable Court for an adjournment

of the hearing of the application set down for hearing on February 16th, 1959, and requested that an adjournment be granted to March 18th, 1959.

The Honourable the Acting Chief Justice being satisfied that there were good and sufficient reasons for granting such an adjournment accordingly granted the adjournment requested.

P.V. Truebody
Registrar of the Supreme Court.

In the
Supreme Court
of St. Helena

No.6

Order granting
Adjournment,
16th February,
1959 -
continued.

10

No. 7

AFFIDAVIT OF SALIM AL ORRAYEDH

IN THE SUPREME COURT OF ST. HELENA

Ex Parte Abdul Rahman Al Baker Applicant

I, Salim al Orrayedh, Registrar of the Bahrain Law Courts, make oath and say as follows:-

1. I was present throughout the trial of the applicant and four other men at Budeya on 22nd and 23rd December, 1956.

20

2. After the opening speech of the Prosecutor, the applicant, on behalf of all five accused, demanded that the trial should be held at the Court-house in Manama. He said that if the trial were held at Budeya the accused would enter no defence. The Court ruled that, in accordance with orders of the Ruler, the trial should proceed at Budeya.

30

3. The accused were given the opportunity of putting questions to witnesses called by the Prosecutor, but none of them did so. They were also given the opportunity of calling witnesses and addressing the Court on their own behalf, but none of them did so. The applicant said he would make a statement if fifteen people, whom he named, could come to the Court to hear it. As the Court refused to allow this, he made no statement.

4. The Court convicted all five accused of the four charges brought against them. The applicant was sentenced to fourteen years imprisonment.

No.7

Affidavit of
Salim al
Orrayedh,
23rd February,
1959.

In the
Supreme Court
of St. Helena

5. The trial was open to the public. As many
people were admitted as the courtroom held.

SALIM A. ORRAYEDH

No.7

Affidavit of
Salim al
Orrayedh,
23rd February,
1959 -
continued.

Sworn at Her Majesty's Political Agency
at Bahrain before me, Alfred Francis Ward,
Political Officer, a person appointed by
Her Majesty's Political Resident to admi-
nister oaths and take affidavits under the
Bahrain Miscellaneous Services Regulation,
1953, on February 23, 1959.

10

A.F. WARD

L.S.

No.8

Affidavit of
Charles
Alexander
Gault,
23rd February,
1959.

No. 8

AFFIDAVIT OF CHARLES ALEXANDER GAULT

IN THE SUPREME COURT OF ST. HELENA

Ex Parte Abdul Rahman Al Baker Applicant

I, Charles Alexander Gault, Commander of the
Most Excellent Order of the British Empire, of Her
Majesty's Political Agency, Bahrain, make oath and
say as follows :-

20

- 1) I hold, and have held since December 8, 1954,
the office of the Political Agent, Bahrain.
- 2) The Prisoners' Removal (Bahrain and St.Helena)
Order 1956 (S.I. 1956 No. 2032) was published
in Bahrain on December 28, 1956 by being
posted on the official notice board at the
Political Agency.
- 3) The aforesaid order was also published in
Supplement No:16 of the Persian Gulf Gazette
dated April 1, 1957. A copy of the said
Gazette is now produced and shown to me
marked "C.A.G.1".

30

CHARLES A. GAULT.

Sworn at Her Majesty's Political Agency at Bahrain
before me, Alfred Francis Ward, Political Officer,

a person appointed by Her Majesty's Political Resident to administer oaths and take affidavits under the Bahrain Miscellaneous Services Regulation, 1953, on February 23, 1959.

A.F. WARD.

L.S.

In the
Supreme Court
of St. Helena

No.8

Affidavit of
Charles
Alexander
Gault,
23rd February,
1959 -
continued.

No. 9

AFFIDAVIT OF SIR JAMES DUNDAS HARFORD
AND EXHIBITS THERETO

No.9

Affidavit of
Sir James
Dundas
Harford, and
exhibits
thereto,
26th February,
1959.

10 IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

I, JAMES DUNDAS HARFORD, a Knight Commander of the Most Excellent Order of the British Empire, A Companion of the Most Distinguished Order of St. Michael and St. George, of 11, Kersley Street, London, S.W.11, make oath and say as follows :-

20 1. From the 23rd October, 1953, until the 25th April, 1958, I held the office of Governor and Commander-in-Chief in and over the Island of St. Helena and its Dependencies.

2. On the 18th December, 1956 I submitted an address to Her Majesty the Queen, of which a true copy is now produced and shewn to me, marked "J.D.H.1".

30 3. The Prisoners Removal (Bahrain and St. Helena) Order, 1956 (S.I. 1956 No. 2032) was published in the St. Helena Government Gazette, volume 1, New Series No. 74, dated the 22nd December, 1956. A copy of the said Gazette is now produced and shown to me, marked "J.D.H.2".

4. On the 24th December, 1956 I sent a despatch No.280 under my hand to the Secretary of State for the Colonies. The said despatch is now produced and shown to me marked "J.D.H.3".

In the
Supreme Court
of St. Helena

No.9

Affidavit of
Sir James
Dundas
Harford, and
exhibits
thereto,
26th February,
1959 -
continued.

5. On the 27th January 1957, three prisoners, of whom the Applicant was one, arrived at St. Helena in H.M.S. "Loch Insh". The Captain of the said vessel delivered them to Harry Tyler, then Superintendent of Police and Prisons, whom I had empowered to receive them. The said three prisoners were thereafter detained at Mundens in St. Helena, and were still so detained when I left the island on the 1st January, 1958.

SWORN at 31 Great Peter
Street in the County of
London this 26th day of
February, 1959

J.D. Harford

10

Before me,

A Commissioner for Oaths.

Exhibit
J.D.H.1 to
Affidavit of
Sir James
Dundas
Harford,
26th February,
1959.

EXHIBIT J.D.H.1. - ADDRESS OF GOVERNOR
OF ST. HELENA TO HER MAJESTY THE QUEEN

IN THE SUPREME COURT OF ST. HELENA

Ex Parte Abdul Rahman Al Baker Applicant

This is the exhibit marked "J.D.H.1" referred to in the Affidavit of Sir James Dundas Harford sworn in this matter this 26th day of February, 1959.

20

Before me,

A Commissioner for Oaths.

"J.D.H.1"

Whereas the Ruler of Bahrain has expressed his desire that arrangements should be entered into between Bahrain and St. Helena for removal of certain prisoners from Bahrain to St. Helena.

And Whereas it is proposed to make provision for the extension of the Colonial Prisoners Removal Act, 1869, to Bahrain:

30

Now therefore I, the Governor of St. Helena,

do hereby respectfully submit to Her Majesty this my humble Address praying that sanction be given by Order of Her Majesty in Council in order that the desired arrangements may be entered into between Bahrain and St. Helena in pursuance of the said Act.

Given under my hand at the Castle Jamestown this 18th day of December, 1956.

J.D. HARFORD.

In the
Supreme Court
of St. Helena

Exhibit
J.D.H.1 to
Affidavit of
Sir James
Dundas
Harford,
26th February,
1959 -
continued.

10

EXHIBIT J.D.H.2. - ST. HELENA GOVERNMENT
GAZETTE OF 22nd DECEMBER, 1956

IN THE SUPREME COURT OF ST. HELENA

Ex Parte Abdul Rahman Al Baker Applicant

This is the exhibit marked "J.D.H.2" referred to in the Affidavit of Sir James Dundas Harford sworn in this matter this 26th day of February, 1959.

Before me,

A Commissioner for Oaths.

"J.D.H.2"

20

THE ST. HELENA GOVERNMENT GAZETTE

EXTRAORDINARY

Vol. 1, New Series	Published by Authority	No. 74
Annual Sub- scription 15/- Post Free	22nd December, 1956	Present issue 6d. per copy

STATUTORY INSTRUMENTS
1956, No. 2032.

COLONIAL PRISONERS

30

THE PRISONERS REMOVAL (BAHREIN AND ST. HELENA) ORDER,
Made 19th December, 1956. 1956.

Exhibit
J.D.H.2 to
Affidavit of
Sir James
Dundas
Harford,
26th February,
1959.

In the
Supreme Court
of St. Helena

At the Court at Buckingham Palace, the 19th
day of December, 1956.

Present,

The Queen's Most Excellent Majesty in Council

Exhibit
J.D.H.2 to
Affidavit of
Sir James
Dundas
Harford,
26th February,
1959 -
continued.

Whereas the Ruler of Bahrein and the Governor
of the Colony of St. Helena have presented addresses
to Her Majesty as hereinafter provided:

Now, therefore, Her Majesty, by virtue and in
exercise of the powers in this behalf by section 4
of the Colonial Prisoners Removal Act, 1869(a), or
otherwise, in Her Majesty vested, is pleased, by
and with the advice of her Privy Council, to order,
and it is hereby ordered, as follows:-

10

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

2. The sanction of Her Majesty is hereby given
in order that the Ruler of Bahrein and the Governor
of St. Helena may in accordance with section 4 of
the Colonial Prisoners Removal Act, 1869 (which ex-
tends to Bahrein by virtue of the Bahrein (Removal
of Prisoners) Order, 1956(b)) enter into agreement
for the removal of prisoners (not being persons
subject to the Bahrein Order, 1952, as from time to
time amended(c)), from Bahrein to the Colony of St.
Helena and for their return.

20

EXPLANATORY NOTE

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

This Order sanctions the making of arrangements
for the removal of prisoners (not being persons sub-
ject to the Bahrein Order, 1952, as from time to
time amended) from Bahrein to St. Helena and for
their return.

30

NOTE. - An urgent request made on behalf of
Her Majesty's Government was recently received by
His Excellency the Governor, as to the possibility
of arranging for the detention in St. Helena of

(a) 32 and 33 Vict. c.10: (b) S.I. 1956/2031:
(c) S.I. 1952/2108, 1953/1213, 1956/827 (1952 I,
p.184: 1953 I, p.124).

40

five subjects of the Rulor of Bahrain in the Persian Gulf, convicted of political offences.

After discussing all aspects of this request with the Executive Council, the Governor informed the Secretary of State for the Colonies of his concurrence in the proposed arrangements.

It is expected that these persons will be brought to St. Helena in one of Her Majesty's ships in the latter part of January, and that they will be detained at Mundcn's.

In the
Supreme Court
of St. Helena

Exhibit
J.D.H.2 to
Affidavit of
Sir James
Dundas
Harford,
26th February,
1959 -
continued.

EXHIBIT J.D.H.3. - DESPATCH FROM GOVERNOR
OF ST. HELENA TO THE SECRETARY OF STATE
FOR THE COLONIES

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

This is the Exhibit marked "J.D.H.3" referred to in the Affidavit of Sir James Dundas Harford sworn in this matter this 26th day of February, 1959.

Exhibit
J.D.H.3 to
Affidavit of
Sir James
Dundas
Harford,
26th February
1959.

Before me,

A Commissioner for Oaths.

"J.D.H.3"
The Castle,
St. Helena.
24th December, 1956.

CHIEF REGISTRAR'S OFFICE
30 JAN 1957
COLONIAL OFFICE

Sir,

With reference to your telegram No. 122 of 13th December, I have the honour to inform you of my concurrence in the proposed arrangements for detention in St. Helena of five Bahrein subjects after

In the
Supreme Court
of St. Helena

removal from Bahrein under the terms of the Colo-
nial Prisoners Removal Act, 1869.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

J. D. HARFORD.

Governor.

Exhibit
J.D.H.3 to
Affidavit of
Sir James
Dundas
Harford,
26th February
1959 -
continued.

THE RIGHT HONOURABLE
THE SECRETARY OF STATE FOR THE COLONIES.

10

No. 10

No.10

Affidavit of
Sir Charles
Dalrymple
Belgrave and
Exhibits
thereto,
27th February,
1959.

AFFIDAVIT OF SIR CHARLES DALRYMPLE
BELGRAVE AND EXHIBITS THERETO

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

I, CHARLES DALRYMPLE BELGRAVE, a Knight Com-
mander of the Most Excellent Order of the British
Empire, of 53 Victoria Road, London, W.8. make oath
and say as follows :-

1. From 1926 to 1957 I was Adviser to His Highness 20
Shaikh Sulman, the Ruler of Bahrain. Throughout
this period I was also a Judge of the Ruler's Courts.
I am well acquainted with the Arabic language.

2. The Ruler is the supreme legislative, executive 30
and judicial authority of Bahrain (except in matters
in which Her Majesty the Queen has jurisdiction).
He can delegate his judicial functions in any way
he chooses. He has created permanent Courts, to
which, in the absence of a special direction by him,
all cases (except those within Her Majesty's juris-
diction) go; but he retains power to appoint a 30
special court for the trial of any particular case,
and to prescribe the place where such a court shall
sit.

3. Serious disturbances occurred in Bahrain during
the first three days of November, 1956, during the

course of which rioting and widespread damage to property occurred. The Applicant and three other men were arrested on the 6th November, 1956, a fifth man having been arrested on 2nd November, 1956. All five were leaders of a body then known as the Committee of National Union. The Applicant is not a subject of the Ruler of Bahrain, but a subject of the Ruler of Qatar.

In the
Supreme Court
of St. Helena

No. 10

Affidavit of
Sir Charles
Dalrymple
Belgrave and
Exhibits
thereto,
27th February,
1959 -
continued.

10 4. On or about the 1st December, 1956, acting on behalf of the Ruler, I orally informed Sir Bernard Burrows, Her Majesty's Political Resident in the Persian Gulf, that it had been decided that these five men should be placed on trial on charges of sedition or treason, and enquired whether, in the event of their being convicted and sentenced to terms of imprisonment, Her Majesty's Government would be willing to arrange for them to undergo their sentences in a British possession.

20 5. On the 18th December, 1956, the Political Resident orally informed me that Her Majesty's Government were willing to arrange for the removal of these persons to a British possession to undergo any sentences that might be passed upon them and the Government of St. Helena had signified its willingness to receive them. He also told me that Orders in Council would need to be made.

30 6. On the 18th December, 1956, I handed to the Political Resident a document in the Arabic language under the hand and seal of the Ruler. This document, together with a true translation thereof, is now produced and shown to me marked "C.D.B.1."

7. The five men mentioned in paragraph 3 above, were charged with attempting, in their capacity as members of an unrecognised party known as the High Executive Committee and then, after its official recognition by His Highness, as the Committee of National Union, to carry out:-

40 (a) the assassination of the Ruler and some of his family and similarly the assassination of his Adviser, who is an officer in his Government, and the destruction of the palace of the Ruler and the setting fire to the Airport of Al Moharraq and other places;

(b) the overthrow by illegal means of governmental control;

In the
Supreme Court
of St. Helena

No. 10

Affidavit of
Sir Charles
Dalrymple
Belgrave and
Exhibits
thereto,
27th February,
1959 -
continued.

(c) the removal of the Ruler from Authority over his principality by deposing him.

There was a further charge that they organised a general strike and demonstration in the town of Manamah on Friday the 2nd November, 1956, and in the course thereof, after the Government had authorised a demonstration on condition that the procession was peaceful and should follow a defined route, the procession did not follow the route laid down by the Government and agreed to by the Secretary of the Committee, and was not peaceful but used violence, destroying and setting fire to buildings, in consequence of which great losses were caused to the property of the Ruler, the Government, business firms and certain individuals in Bahrain.

10

8. The Applicant, being a subject of the Ruler of Qatar, is a person not subject to the Bahrain Order, 1952 (by which provision is made for the exercise of the jurisdiction of Her Majesty the Queen within the territories of the Ruler of Bahrain). The charge against the Applicant included the charge of attempting to assassinate me, and I was at the material time a person subject to the Bahrain Order. The prosecution of the Applicant was therefore a "mixed case" within the meaning of article 67(2) of the Bahrain Order. By a notification of the 2nd February, 1953, Her Majesty's Political Resident in the Persian Gulf concurred in the trial of mixed cases of this class by the Courts within the general jurisdiction of which the accused was: the said notification is now produced and shown to me, marked "C.D.B.2". So long as he was within the territories of the Ruler of Bahrain, the Applicant was subject to the general jurisdiction of the Courts of the Ruler.

20

30

9. In exercise of his powers set out in paragraph 2 of this affidavit, the Ruler appointed a Special Court to try the Applicant and the four men arrested with him. The said Court consisted of Shaikh Abdulla bin Isa, Shaikh Daij bin Hamed and Shaikh Ali bin Ahmed, all of whom have been judges of the Ruler's Courts for many years. In view of the disturbances then going on in Bahrain, the Ruler ordered that the Special Court should sit at the small town of Budeya, not at Manamah, which is the normal seat of the Ruler's Courts. There is now produced and shown to me, marked "C.D.B.3", the document of the Ruler appointing the Special Court, together with a true translation thereof.

40

10. On the 23rd December, 1956, I was informed by Shaikh Daij and I verily believe that the Applicant and the four said men had all been convicted by the Special Court, and had been sentenced, the Applicant and two of the other men to fourteen years' imprisonment, and the two remaining men to ten years' imprisonment.

10 11. On the 26th December, 1956, I handed to the Political Resident a document in the Arabic language under the hand of the Ruler. This document, together with a true translation thereof, is now produced and shown to me marked "C.D.B.4".

12. From his conviction by the Special Court the Applicant had a right of appeal to the Ruler. Had he exercised this right, the matter would have come to my knowledge in the course of my duties as Adviser to the Ruler. So far as I know the Applicant did not exercise this right.

20 13. On the 28th December, 1956, the Applicant and two of the other men who had been convicted with him were delivered into the custody of the Captain of H.M.S. 'Loch Insh' under a warrant issued by the Ruler. A translation of the said warrant is now produced and shown to me, marked "C.D.B.5".

14. In the course of my duties as Adviser to the Ruler, I was concerned with the arrest of the Applicant and the arrangements for his trial and his removal to St. Helena.

30 The matters set out in this affidavit are all except as indicated in paragraph 10 within my own knowledge of those events and of the law of Bahrain.

SWORN at 38 Parliament Street)
 in the City of Westminster)
 this 27th day of February) C. Dalrymple Belgrave
 1959.)

Before me,

T.M. Sheaf,

A Commissioner for Oaths.

In the
 Supreme Court
 of St. Helena

No. 10

Affidavit of
 Sir Charles
 Dalrymple
 Belgrave and
 Exhibits
 thereto,
 27th February,
 1959 -
 continued.

In the
Supreme Court
of St. Helena

EXHIBIT C.D.B.1. - TRANSLATION OF
DESPATCH FROM THE RULER OF BAHRAIN
TO HER MAJESTY THE QUEEN

IN THE SUPREME COURT OF ST. HELENA

Exhibit
C.D.B.1 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959.

Ex Parte ABDUL RAHMAN AL BAKER Applicant

This is the exhibit marked "C.D.B.1" referred to in the Affidavit of Sir Charles Dalrymple Belgrave sworn in this matter this 27th day of February, 1959.

Before me,

10

T.M. Sheaf

A Commissioner for Oaths.

"C.D.B.1"

Enclosure No.3 to Despatch No.2 (1011/6/57G)
of January 17, 1957

18 December 1956.

"To Her Majesty the Queen of Britain. May God preserve and keep her."

"In view of the ancient friendship long existing between Her Majesty's Government and us we request assistance from time to time in removing certain persons sentenced in our court to a safe place outside Bahrain for imprisonment for the appointed sentence. We beseech you to allow us to make arrangements with the Governor of the island St. Helena for the reception of the persons who will be sent to that island in accordance with the sentence decided. Always, Your Majesty, placing confidence in a response to our request. May God keep you in His care.

20

SALMAN"

30

EXHIBIT C.D.B.2. - NOTIFICATION ON TRIAL
OF MIXED CASES MADE BY HER MAJESTY'S POLI-
TICAL RESIDENT, PERSIAN GULF

In the
Supreme Court
of St. Helena

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

Exhibit
C.D.B.2 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959.

This is the exhibit marked "C.D.B.2" referred to in the Affidavit of Sir Charles Dalrymple Belgrave sworn in this matter this 27th day of February, 1959.

10

Before me,

T.M. Sheaf

A Commissioner for Oaths.

"C.D.B.2"

NOTIFICATION

Trial of Mixed Cases
under the Bahrain Order, 1952

Under Article 67 (2) of the Bahrain Order, 1952, I signify my concurrence, pending further or other instructions, with the continuance of the present practice of Her Britannic Majesty's Court for Bahrain in dealing with the following classes of mixed cases that is to say :-

20

Criminal cases: A person not subject to the Order who is alleged to have committed an offence in relation to a person subject to the Order may be tried by the court within whose jurisdiction the accused is.

30

A person subject to the Order who is alleged to have committed an offence in relation to a person not subject to the Order may be tried by Her Britannic Majesty's Court for Bahrain.

Civil cases: Suits brought by persons not subject to the Order against persons subject to the Order may be tried by Her Britannic Majesty's Court for Bahrain.

Suits brought by persons subject to the Order against persons not subject to the Order will be admitted by the

In the
Supreme Court
of St. Helena

Court for Bahrain and sent to the Joint
Court, as provided by Article 69 (1).

Exhibit
C.D.B.2 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959 -
continued.

Her Majesty's Political
Resident in the Persian
Gulf.

Dated this second day of February 1953.

L. S.

Exhibit
C.D.B.3 to
Affidavit of
Sir Charles
Dalrymple
Belgrave
27th February,
1959.

EXHIBIT C.D.B.3. - ORDER OF RULER OF
BAHRAIN CONVENING SPECIAL COURT

IN THE SUPREME COURT OF ST. HELENA

10

Ex Parte ABDUL RAHMAN AL BAKER Applicant

This is the exhibit marked "C.D.B.3" referred
to in the Affidavit of Sir Charles Dalrymple Bel-
grave sworn in this matter this 27th day of
February, 1959.

Before me,

T.M. Sheaf

A Commissioner for Oaths.

CERTIFICATE

"C.D.B.3"

I, Charles Alexander Gault, Her Majesty's
Political Agent at Bahrain, certify that the att-
ached paper is the original order dated December
22, 1956 by His Highness the Ruler of Bahrain con-
vening a special court to sit at Budeya to try the
five members of the Committee of National Union and
that the seal thereon is known to me as the seal of
Shaikh Salman bin Hamed, the Ruler of Bahrain.

20

Charles A. Gault

H.M. Political Agent
at Bahrain.

L. S.

30

British Political Agency,
Bahrain.

January 12, 1959.

"C.D.B.3 annexure"

OFFICE OF THE RULER OF AL BAHRAIN

(Al Bahrain)

No.

Date : 20 Jamadiel Awal 1376

22 December 1956

Preface:

No. 3551/56

In the
Supreme Court
of St. HelenaExhibit
C.D.B.3 to
Affidavit of
Sir Charles
Dalrymple
Belgrave
27th February,
1959 -
continued.We Salman ibn Hamad Al Khalifa, Ruler of
Bahrain and its Dependencies

Herewith appoint :-

10

1. Sheikh Abdullah ibn el Sheikh Issa Al Khalifa
2. Sheikh Daij ibn el Sheikh Hamad Al Khalifa
3. Sheikh Ali ibn Ahmad Al Khalifa.

Judges for the Special Court at Al Budeya for
the Trial of the five members of the Committee of
National Union who are accused of several charges
against the Government.

"Seal Impression"

20

EXHIBIT C.D.B.4. - TRANSLATION OF AGREE-
MENT FOR REMOVAL OF PRISONERS TO ST. HELENAIN THE SUPREME COURT OF ST. HELENAEx Parte ABDUL RAHMAN AL BAKER ApplicantThis is the exhibit marked "C.D.B.4" referred
to in the Affidavit of Sir Charles Dalrymple Bel-
grave sworn in this matter this 27th day ofExhibit
C.D.B.4 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959.

In the
Supreme Court
of St. Helena

February, 1959.

Before me,

T.M. Sheaf

A Commissioner for Oaths.

Exhibit
C.D.B.4 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959 -
continued.

Translation

"C.D.B.4"

AGREEMENT

Whereas sentence of imprisonment for 14 years
has been passed on the following persons :-

Abdul Rahman Al Bakir
Abdul Aziz Al Shamlan
Abdullah Al Aliwat

10

We; Salman bin Hamad Al Khalifa, Ruler of
Bahrain, testify by this document that we have ag-
reed with the Governor of St. Helena upon the re-
moval of the said persons from Bahrain to St.
Helena for the said period or until we agree to
their return to Bahrain.

Executed this 26th day of December 1956.
(24th day of Jamadi Al Awal 1376)

20

Exhibit
C.D.B.5 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959.

EXHIBIT C.D.B.5. - TRANSLATION OF WARRANT
FOR DELIVERY OF PRISONERS TO ST. HELENA

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

This is the exhibit marked "C.D.B.5." referred
to in the Affidavit of Sir Charles Dalrymple Belgrave
sworn in this matter this 27th day of February,
1959.

Before me,

T.M. Sheaf

A Commissioner for Oaths.

30

Translation

"C.D.B.5"

To the Captain of H.M.S. "Loch Insh"

Warrant

By this document we, Salman bin Hamad Al Khalifa

Ruler of Bahrain authorise you to receive and convey the following persons:-

Abdul Rahman Al Bakir
Abdul Aziz Al Shemlan
Abdullah Al Aliwat

from Bahrain to St. Helena and deliver them to the Governor of the island or his representative.

Executed this 26th day of December 1956
(24th day of Jamadi Al Awal 1376)

In the
Supreme Court
of St. Helena

Exhibit
C.D.B.5 to
Affidavit of
Sir Charles
Dalrymple
Belgrave,
27th February,
1959 -
continued.

10

No.11

AFFIDAVIT OF PATRICK VINCENT TRUEBODY
AND EXHIBIT THERETO

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

I, PATRICK VINCENT TRUEBODY, of Jamestown in the island of St. Helena, a Senior Sergeant of Police, make oath and say as follows:-

1. On the 22nd December, 1958 the Governor of St. Helena appointed me to be Superintendent of Gaols.

20 2. The Applicant is detained in my custody at Mundens in this island. I hold a warrant from the Governor commanding and empowering me to keep the Applicant in my custody at Mundens or such other place as His Excellency may from time to time appoint for that purpose. The said warrant is now produced and shown to me marked 'P.V.T.1'.

SWORN at Jamestown in the)
Island of St. Helena this) P.V. TRUEBODY
17th day of March 1959)

30

Before me,

G.A. LEWIS

Magistrate, St. Helena.

No. 11

Affidavit of
Patrick
Vincent
Truebody and
Exhibit
thereto,
17th March,
1959.

In the
Supreme Court
of St. Helena

EXHIBIT P.V.T.1. - WARRANT TO KEEP
APPLICANT IN ST. HELENA

IN THE SUPREME COURT OF ST. HELENA

Exhibit
P.V.T.1 to
Affidavit of
Patrick
Vincent
Truebody,
17th March,
1959.

Ex Parte Abdul Rahman Al Baker Applicant

This is the exhibit marked "P.V.T.1" referred to in the Affidavit of Patrick Vincent Truebody sworn in this matter this 17th day of March 1959.

Before me,

G.A. LEWIS

Magistrate, St. Helena.

10

"P.V.T.1"

To Patrick Vincent Truebody or such other officer as may from time to time be holding or discharging the functions of the office of Superintendent of Gaols.

Whereas Abdul Rahman Al Baker was on the 23rd day of December 1956 convicted before a special court sitting in Bahrain of certain offences, and sentenced to imprisonment for term of fourteen years:

20

And whereas the said Abdul Rahman Al Baker has been removed from Bahrain to St. Helena in pursuance of an arrangement made between His Highness the Ruler of Bahrain and His Excellency the Governor of St. Helena under the Colonial Prisoners Removal Act 1869 for the purpose of serving his sentence:

And whereas the said sentence has been reduced to imprisonment for a term of thirteen years:

Now, therefore, you, the said Patrick Vincent Truebody or other officer as aforesaid are hereby commanded and empowered to keep the said Abdul Rahman Al Baker in your custody at Mundens or such other place as His Excellency may from time to time appoint for that purpose until he shall have suffered the punishment imposed on him or shall be

30

discharged according to law.

For which this shall be your warrant.

By His Excellency's Command.

G.A. LEWIS

Government Secretary.

The Castle,
St. Helena.

22nd December, 1958.

10 To Patrick Vincent Truebody or such other officer
as may from time to time be in charge of the gaols.

In the
Supreme Court
of St. Helena

Exhibit
P.V.T.1 to
Affidavit of
Patrick
Vincent
Truebody,
17th March,
1959 -
continued.

No.12

AFFIDAVIT OF ROBERT EDMUND ALFORD
AND EXHIBITS THERETO

IN THE SUPREME COURT OF ST. HELENA

Ex Parte ABDUL RAHMAN AL BAKER Applicant

I, ROBERT EDMUND ALFORD, a Companion of the Most Distinguished Order of St. Michael and St. George; of Plantation House in the Island of St. Helena, make oath and say as follows:-

20 1. I hold, and have held since the 12th February, 1958, the office of Governor and Commander-in-Chief in and over the Island of St. Helena and its Dependencies.

30 2. The Applicant is detained at Mundens in this island in the custody of Senior Sergeant Patrick Vincent Truebody, by virtue of a warrant issued by my command on the 22nd December, 1958. I have read the Affidavit of the said Patrick Vincent Truebody sworn herein on the 17th March 1959 and the said warrant is the exhibit attached to that affidavit and marked 'P.V.T.1'.

3. On the 22nd December, 1958 I appointed the said Patrick Vincent Truebody to be Superintendent

No. 12

Affidavit of
Robert Edmund
Alford and
Exhibits
thereto,
17th March,
1959.

In the
Supreme Court
of St. Helena

No. 12

Affidavit of
Robert Edmund
Alford and
Exhibits
thereto,
17th March,
1959 -
continued.

of Gaols. The said appointment was notified by notice No.619 in the St. Helena Government Gazette, vol.1, New Series, No.104, dated the 31st December, 1958. A copy of the said Gazette is now produced and shown to me marked 'R.E.A.1'.

4. On the 3rd January, 1959 I appointed Mundens to be a special gaol. The said appointment was notified by notice No.624 in the St. Helena Government Gazette, vol.1, New Series, No.106, dated the 13th January 1959. A copy of the said Gazette is now produced and shown to me marked 'R.E.A.2'.

10

5. I am informed by Her Majesty's Secretary of State for the Colonies and verily believe that the Applicant was sentenced by a Court in Bahrain to fourteen years' imprisonment on the 23rd December, 1956 of which imprisonment one year was subsequently remitted. He is therefore due to be released (subject to any further remission which may be granted) on the 22nd December, 1969.

6. I have caused a search to be made for the original warrant under which the Applicant and two other prisoners were brought from Bahrain to St. Helena, but it cannot be found.

20

SWORN at Jamestown in
the Island of St.
Helena this 17th day
of March 1959.

Robert Alford

Before me,

G.A. LEWIS

Magistrate, St. Helena.

30

Exhibit
R.E.A.1 to
Affidavit of
Robert Edmund
Alford,
17th March,
1959.

EXHIBIT R.E.A.1. - ST. HELENA GOVERNMENT
GAZETTE OF 31st DECEMBER 1958

IN THE SUPREME COURT OF ST. HELENA

Ex Parte Abdul Rahman Al Baker Applicant

This is the exhibit marked "R.E.A.1" referred to in the Affidavit of Robert Edmund Alford sworn

in this matter this 17th day of March 1959.

Before me,

G.A. LEWIS

Magistrate, St. Helena.

In the
Supreme Court
of St. Helena

"R.E.A.1"

Exhibit
R.E.A.1 to
Affidavit of
Robert Edmund
Alford,
17th March,
1959 -
continued.

THE ST. HELENA GOVERNMENT GAZETTE

Vol. I,
New Series

Published by Authority

No. 104

Annual Sub-
scription
15/- Post
Free

31st December, 1958

Present
issue 9d
per copy

10

Contents

* * * * *

619. SUPERINTENDENT OF GAOLS 468

* * * * *

468 St. Helena Government Gazette

No. 619.

Superintendent of Gaols

In exercise of the powers conferred upon him
by section 3 of the Gaols Ordinance (Cap.44) and all
other powers him enabling, the Governor has been
pleased to appoint Patrick Vincent Truebody to be
Superintendent of Gaols.

20

By His Excellency's Command,

G.A. Lewis,

The Castle, St. Helena,
22nd December, 1958.

Government Secretary.

* * * * *

In the
Supreme Court
of St. Helena

EXHIBIT R.E.A.2. - ST. HELENA GOVERNMENT
GAZETTE OF 13th JANUARY 1959

IN THE SUPREME COURT OF ST. HELENA

Exhibit
R.E.A.2 to
Affidavit of
Robert Edmund
Alford,
17th March,
1959.

Ex Parte Abdul Rahman Al Baker Applicant

This is the exhibit marked "R.E.A.2" referred to in the Affidavit of Robert Edmund Alford sworn in this matter this 17th day of March 1959.

Before me,

G.A. LEWIS

Magistrate, St. Helena.

10

"R.E.A.2"

THE ST. HELENA GOVERNMENT GAZETTE

EXTRAORDINARY

Vol. I, New Series	Published by Authority	No. 106
Annual Sub- scription 15/- Post Free	13th January, 1959	Present issue 6d per copy

No. 624.

20

Cap. 44

The Gaols Ordinance

Section 3.

In exercise of the powers conferred upon him by section 3 of the Gaols Ordinance and all other powers thereto him enabling the Governor has been pleased to appoint Munden's Fort to be a special gaol.

By His Excellency's command,

G.A. Lewis,

Government Secretary.

30

The Castle,
St. Helena,
3rd January, 1959.

No.13

JUDGMENT OF CHIEF JUSTICE BRETTIn the
Supreme Court
of St. Helena

No. 13

Judgment of
Chief Justice
Brett,
20th March,
1959.

10 In this case the applicant, Abdul Rahman Al Baker, submits that he is unlawfully imprisoned in St. Helena and asks the court for a writ of habeas corpus to secure his release. His original application was made to a judge in chambers, who directed the issue of a summons in accordance with O.59r.16(a) of the R.S.C. The summons was returnable on the 29th December, 1958 and after two adjournments was ordered to be heard de novo by me on the 18th March 1959. In fact the hearing before me, with the concurrence of all parties, started on the 17th March 1959.

20 Before considering the merits of the application I would refer to two preliminary matters. There are no legal practitioners practising in St. Helena in the ordinary way, and in the proceedings prior to the 17th March the applicant was represented, with the leave of the court, by a gentleman resident here named Major Strong. At the hearing before me Mr. Brown, who represented the applicant, expressed the gratitude of himself and his client for the help given by Major Strong, and it gives me pleasure to add the thanks of the court. It is, if I may say so, satisfactory to know that although a legal practitioner was not available an alien imprisoned in St. Helena was not left without help in seeking to enforce the right the law ensures him, of testing the legality of his imprisonment.

30

My second preliminary observation concerns the procedure adopted. The R.S.C. do not prescribe the order of speeches on a summons of this kind and it was suggested by counsel on both sides that Mr. McKenna, for the respondents, should address me first; Mr. Brown should reply; Mr. McKenna should answer Mr. Brown's reply; and Mr. Brown should have the last word. This procedure seemed fair to all parties and was adopted.

40 I now turn to the merits of the application. The applicant is a subject either of Bahrain, as he contends, or of Qatar, as is stated in the affidavit of Sir Charles Belgrave, formerly Adviser to the Ruler of Bahrain; in either case he is a person not subject to the Bahrain Order, 1952. On the 23rd December, 1956 he was convicted on a number

In the
Supreme Court
of St. Helena

No. 13

Judgment of
Chief Justice
Brett,
20th March,
1959 -
continued.

of charges by a special court appointed by the Ruler of Bahrain, and sentenced to fourteen years' imprisonment. On the 28th December, 1956 he was delivered into the custody of the captain of H.M.S. Loch Insh and conveyed to St. Helena, where he has been kept in imprisonment ever since. His submission is that there is no legal authority for his imprisonment in St. Helena.

It is said by the respondents that the justification for the delivery of the applicant into the custody of the captain of H.M.S. Loch Insh and for his imprisonment in St. Helena lies in an agreement entered into between the Ruler of Bahrain and the Governor of St. Helena under the Colonial Prisoners Removal Act, 1869 and it will be convenient at this stage to refer to the various Acts and Statutory Instruments which have a bearing on this case. Bahrain is a foreign country in which Her Majesty has certain jurisdiction, and provision for the exercise of that jurisdiction is made by the Bahrain Order, 1952, made under the Foreign Jurisdiction Acts, 1890 and 1913. This Order provides for the establishment of criminal and civil courts for the trial of cases involving persons subject to the Order and for the law to be administered by those courts; it also provides for the trial of what are called "mixed cases" and of cases in which a person not subject to the Order is alleged to have committed an offence in relation to a person subject to the Order. By the Bahrain (Removal of Prisoners) Order, 1956, made on the 19th December, 1956 under the Foreign Jurisdiction Acts, the Colonial Prisoners Removal Act, 1869, with certain adaptations or modifications, was extended to Bahrain. I shall refer to this Order as the Removal Order. Also on the 19th December, 1956 there was made the Prisoners Removal (Bahrain and St. Helena) Order, 1956 giving Her Majesty's sanction to the agreement under the Colonial Prisoners Removal Act, 1869, between the Ruler of Bahrain and the Governor of St. Helena which I have already mentioned. I shall refer to this Order as the Sanction Order. Before an order having the effect of the Sanction Order can be made, addresses must have been presented to Her Majesty by the appropriate authority in each of the territories concerned; the preamble to the Sanction Order recites that such addresses had been presented, and copies of the addresses themselves were produced as exhibits attached to affidavits in this case.

10

20

30

40

50

Mr. Brown disputed the validity of the applicant's imprisonment in St. Helena on the following five grounds, which I give as far as possible in his own words :-

In the
Supreme Court
of St. Helena

No. 13.

Judgment of
Chief Justice
Brett,
20th March,
1959 -
continued.

- (1) The Colonial Prisoners Removal Act, 1869 has no application because the applicant was never convicted by a court of competent jurisdiction in Bahrain.
- 10 (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.
- (4) If there were an agreement between the Ruler of Bahrain and the Governor it does not apply to the applicant.
- 20 (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.

The first ground turns on the meaning of articles 67 and 68 of the Bahrain Order, 1952. According to the affidavit of Sir Charles Belgrave, the applicant and four others (none of whom it is suggested was a person subject to the Bahrain Order, 1952) were charged with attempting to carry out various criminal acts, most of which do not appear to come within the ambit of article 68(1) of the Order, but which included the assassination of a person subject to the Order, namely Sir Charles Belgrave, an act which does come within the ambit of article 68(1). Mr. Brown's principal argument was that although Sir Charles Belgrave was a person in relation to whom an offence was alleged to have been committed, so as to make article 68 applicable, he was not a party in the case so as to make the case a mixed case within the meaning of article 57(1), and that therefore the only permissible procedure would have been for the court for Bahrain established under article 14(1)(i) to send the case

In the
Supreme Court
of St. Helena

No. 13

Judgment of
Chief Justice
Brett,
20th March,
1959 -
continued.

to the Joint Court established under article 67. As regards the reference to the accused or defendant in the singular in article 67(2) he said that the time to apply the test of whether a case was a mixed case was when the charge was brought and that a criminal case was only a mixed case 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. I am unable to accept this submission. The drafting of articles 67 and 68 of the Order is by no means as clear as it might be - the expression "entertain the same" as used in article 68(1) appears as a matter of grammar to mean that a court is to entertain an offence - but I am satisfied that these articles do not bear the meaning contended for by Mr. Brown, and that the document executed by the Political Resident and attached to Sir Charles Belgrave's affidavit as exhibit C.D.B.2 removed any bar to the exercise by the special court which tried the applicant of its jurisdiction to deal with the offence involving Sir Charles Belgrave.

10

20

The second ground involves the construction of s.5 of the Foreign Jurisdiction Act, as well as the construction and perhaps the validity of the Removal Order and the Sanction Order. The Removal Order extends the Colonial Prisoners Removal Act to Bahrain and is certainly intended to enable person not subject to the Bahrain Order, 1952, to be removed under the Act, since it provides that in relation to such persons references in the Act to the Governor shall be construed as references to the Ruler of Bahrain. Mr. Brown submits, however, that on its true interpretation the Order does not apply to anyone who has not been convicted in the exercise of Her Majesty's jurisdiction in Bahrain; a person not subject to the Bahrain Order, 1952 can, on this interpretation, only be removed under the Act if he has been convicted in the Joint Court for which the Bahrain Order provided. If the Removal Order purports to enable such a person to be removed after being convicted in any court not deriving any part of its jurisdiction from Her Majesty then in Mr. Brown's submission the Order goes beyond the powers conferred by s.5 of the Foreign Jurisdiction Act and is pro tanto ultra vires. The agreement to which the Sanction Order refers must, Mr. Brown submits, be subject to a similar implied restriction.

30

40

I do not find it necessary to consider the

circumstances in which the Removal Order and the Sanction Order came to be made in order to reach the conclusion that, on the natural interpretation of the two Orders and of the agreement, each of these documents refers to prisoners under sentence in Bahrain who are not persons subject to the Bahrain Order, irrespective of the court by which they were convicted and sentenced. Since the validity of the agreement and the Sanction Order as regards such persons depends on the validity of the Removal Order, what I have to decide is whether s.5 of the Foreign Jurisdiction Act empowers Her Majesty in Council to make an Order having such an effect. Subsection (1) of that section empowers Her Majesty in Council to make an Order directing that any of the Acts set out in the First Schedule to the Act shall extend to any foreign country in which for the time being Her Majesty has jurisdiction, and subsection (2) provides that thereupon any Act so extended shall "to the extent of that jurisdiction" operate as if the country to which it has been extended were a British possession. It is submitted on behalf of the applicant that the words "to the extent of the jurisdiction" refer only to the jurisdiction exercised by the civil and criminal courts. It is pointed out that the Acts set out in the First Schedule all deal with matters affecting the administration of justice and so far as the extension of the Colonial Prisoners Removal Act to Bahrain is concerned it is submitted that no prisoner can be removed under the Act unless he has been sentenced in the exercise of Her Majesty's jurisdiction in Bahrain. For the respondents it is submitted that subsection (1) of the section empowers Her Majesty, in effect, to legislate for a foreign country in which she has jurisdiction and that the word jurisdiction in both subsections refers to legislative power. In my opinion the respondents' interpretation is the correct one and it is agreed on both sides that I am precluded from inquiring into the extent of Her Majesty's power to legislate for Bahrain. The application cannot, therefore, succeed on this ground.

As regards the third ground, while it is true that no formal document was drawn up signifying that an agreement had been made, and subscribed to by both parties, and that the Ruler of Bahrain and the Governor of St. Helena appear to have communicated independently with the Secretary of State and not with one another direct, I am of the opinion that

In the
Supreme Court
of St. Helena

No. 13

Judgment of
Chief Justice
Brett,
20th March,
1959 -
continued.

In the
Supreme Court
of St. Helena

No. 13

Judgment of
Chief Justice
Brett,
20th March,
1959 -
continued.

the documents C.D.B.4 and J.D.H.3 are a sufficient compliance with that part of s.4 of the Colonial Prisoners Removal Act which provides that "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 the colony".

The fourth ground also concerns the wording of J.D.H.3. Mr. Brown says that this document merely expresses the Governor's agreement to the detention of "five Bahrain subjects" and contains no other words by which the applicant can be identified as one of the persons to whom the agreement relates. He then points out that although Mr. Sheridan's affidavit, which the applicant later ratified, describes the applicant as a subject of the Ruler of Bahrain, Sir Charles Belgrave expressly denies this in his affidavit and states that the applicant is a subject of the Ruler of Qatar. This should, he submits, at least set up a doubt in my mind as to whose subject the applicant is, and that being so he says there is insufficient evidence to show that the applicant is one of the five persons referred to in J.D.H.3. He points out that there must be precision in matters affecting the liberty of the subject and that on any failure to observe the required formalities the subject is entitled to be released.

10

20

If I were called on to decide whose subject the applicant is, I should say that on the evidence before me I was unable to do so. The question I have to decide, however, is whether the agreement identifies the applicant with that degree of certainty which the law requires in a matter affecting personal liberty or enables him to be so identified. Mr. McKenna has submitted that the agreement may be interpreted with the use of the same aids as any other document and that the surrounding circumstances show conclusively that the applicant is one of the persons referred to. He also points out that a general agreement for the removal of prisoners would not mention any names and submits that it is not necessary for the agreement itself to name the persons who may be removed under its terms provided they can be shown without question, when the occasion arises, to be persons to whom the agreement relates. I accept wholeheartedly Mr. Brown's submission as to the need for certainty in such a matter as this, but I also accept Mr. McKenna's submission that I am entitled to look outside the terms of

30

40

10 the document signifying the Governor's agreement in order to see whether the applicant is a person to whom the agreement relates. Sir Charles Belgrave's affidavit makes it clear that the applicant was one of the persons whom the Ruler wished to have removed under the Colonial Prisoners Removal Act and taking into consideration the terms of the Governor's Address to Her Majesty as well as the document signifying his agreement to the removal of five persons whom he calls Bahrain subjects I cannot regard the identification of the applicant as one of the five as lacking a sufficient degree of precision to satisfy the requirements of the law.

In the
Supreme Court
of St. Helena

No. 13

Judgment of
Chief Justice
Brett,
20th March,
1959 -
continued.

20 There remains the fifth ground, which concerns the warrant on the authority of which the applicant was delivered into the custody of the captain of H.M.S. Loch Insh and taken to St. Helena. Her Majesty's sanction to the agreement between the Ruler and the Governor came into force in Bahrain in accordance with s.4 of the Colonial Prisoners Removal Act on the day on which it was published in Bahrain, the 28th December, 1956, and that was also the day on which the applicant was delivered into the custody of the captain of H.M.S. Loch Insh. The warrant, however, was signed by the Ruler on the 26th December and Mr. Brown submits that even if it was not issued until the 28th December it was invalid and that its invalidity vitiates the detention of the applicant in St. Helena. It is not a case in which s.37 of the Interpretation Act, 1889 can be invoked, and I am far from saying that every warrant signed and dated on a day before the person issuing it has power to do so is valid if it is issued after he has acquired the power, but in the circumstances of this case I do not consider that the applicant's imprisonment in St. Helena can, at this stage at least, be challenged because of the date the warrant bore.

40 The Application has raised questions of law of some substance and, to me at least, of some difficulty, but in my view it fails and it is dismissed.

L. BRETT

Chief Justice
20.3.59

In the
Supreme Court
of St. Helena

ORDER DISMISSING SUMMONS

No. 14

IN THE SUPREME COURT OF ST. HELENA

Order dis-
missing
Summons,
20th March,
1959.

The Chief Justice, Mr. Justice Lionel Brett.

UPON READING the summons on behalf of Abdul Rahman Al Baker dated the 20th day of October, 1958, for an order that a writ of habeas corpus ad subjiciendum do issue to have the body of the said Abdul Rahman Al Baker alleged to be illegally detained at Munden's in the Island of St. Helena, before a judge in chambers immediately after the receipt of such a writ to undergo and receive all and singular matters and things as the judge shall then and there consider of concerning the said ABDUL RAHMAN AL BAKER in this behalf:

10

AND UPON HEARING Mr. R.G.M. Brown of Counsel for the said Abdul Rahman Al Baker and Mr. B. J. McKenna, Queen's Counsel for His Excellency the Governor of St. Helena and the Superintendent of Gaols and upon reading the affidavits of Bernard Sheridan and the said Abdul Rahman Al Baker filed in support of such motion and the affidavits of Sir Charles Dalrymple Belgrave; Sir James Dundas Harford, Robert Edmund Alford, Charles Alexander Gault, Patrick Vincent Truebody and Salim al Orrayedh filed in opposition thereto;

20

IT IS ORDERED that this summons be dismissed.

This 20th day of March, 1959.

30

P.V. TRUEBODY

Registrar of the Supreme
Court.

L. S.

No.15

ORDER GRANTING SPECIAL LEAVE TO APPEAL
TO HER MAJESTY IN COUNCIL

AT THE COURT AT BALMORAL

the 12th day of August, 1959

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT

SIR MICHAEL ADEANE

LORD CHAMBERLAIN

DOCTOR NKURUMAH

MR. SECRETARY MACLAY

10

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 29th day of July 1959 in the words following, viz:-

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Abdul Rahman Al Baker in the matter of an Appeal from the Supreme Court of St. Helena between the Petitioner and Robert Edmund Alford and Patrick Vincent Truebody Respondents setting forth (amongst other matters) that the Petitioner is now and has been since the 27th January 1957 a prisoner at Mundens in the Colony of St. Helena and is held in the custody of the second Respondent on warrant issued by the first Respondent: that on the 6th November 1956 the Petitioner was arrested in Bahrain and on the 23rd December 1956 he (together with four other men) was brought before a special Court sitting at Budeya a village in Bahrain the said Court not being one of Your Majesty's Courts but a Court of the Ruler of Bahrain specially set up by him to try the Petitioner and the four men: that the Petitioner and the four other men were charged (inter alia) with attempting to carry out:-

(a) the assassination of the Ruler and some of his family and the assassination of the Ruler's Adviser Sir Charles Belgrave a British subject the destruction of the Palace

20

30

40

In the
Privy Council

No. 15

Order granting
special leave
to appeal to
Her Majesty
in Council,
12th August,
1959.

In the
Privy Council

No. 15

Order granting
special leave
to appeal to
Her Majesty
in Council,
12th August,
1959 -
continued.

of the Ruler and the setting fire to the Airport of Al Moharraq and other places (b) the overthrow by illegal means of governmental control and (c) the removal of the Ruler from authority over his principality by deposing him: that the Petitioner has at all times protested his innocence of these and all other charges brought against him and has objected to the jurisdiction of the special Court: that on the 23rd December 1956 the special Court convicted the Petitioner and sentenced him to 14 years imprisonment which sentence was later reduced by Order of the Ruler to 13 years: that on the 28th December 1956 the Petitioner was delivered into the custody of the Captain of H.M.S. Loch Inch and taken to St. Helena where the first Respondent intends to hold the Petitioner (subject to any further remission which may be granted to him by the Ruler of Bahrain) until 22nd December 1970 purporting to act and to have acted under lawful authority pursuant to the provisions of the Colonial Prisoners Removal Act 1869: that the Petitioner applied to the Supreme Court for a Writ of Habeas Corpus directed to the Respondents and on the 20th March 1959 the application was dismissed: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the Judgment of the Supreme Court of St. Helena dated the 20th March 1959 or for further or other relief:

10

20

30

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of St. Helena dated the 20th day of March 1959:

40

"And Their Lordships do further report to Your Majesty that the proper officer of

the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

10 HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor or Officer administering the Government of the Island of St. Helena for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W.G. AGNEW.

In the
Privy Council

No. 15
Order granting
special leave
to appeal to
Her Majesty
in Council,
12th August,
1959 -
continued.