

CHAPTER 89.

FUGITIVE CRIMINALS SURRENDER.

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CHAPTER 89.

FUGITIVE CRIMINALS SURRENDER.

19 of 1906.
29 of 1907.

An Ordinance to Provide for the Surrender of Fugitive Criminals.

[17TH OCTOBER, 1906.]

Preamble.

*

WHEREAS it is expedient to provide for the mutual surrender of fugitive criminals between the Protectorate of the Colony of Sierra Leone and foreign states and protectorates.

Short title
and
application.

1. This Ordinance may be cited as the Fugitive Criminals Surrender Ordinance, and shall apply to the Protectorate.

Interpreta-
tion.

2. In this Ordinance, unless the context otherwise requires—

“crime in respect of which surrender may be granted” means a crime which would be punishable by the law of the Protectorate, if committed in the Protectorate, and which would (by whatever name designated by the law of the Protectorate) be one of the crimes described in the first schedule to this Ordinance:

Provided that every person who is accused or convicted of having counselled, procured, commanded, aided or abetted the commission of any crime or of being accessory before or after the fact of any such crime, shall be deemed for the purpose of this Ordinance to be accused or convicted of having committed such crime, and shall be apprehended and surrendered accordingly;

“conviction” and “convicted” do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term “accused person” includes a person so convicted for contumacy;

“fugitive criminal” means any person accused or convicted of a crime, in respect of which surrender may be granted, committed within the jurisdiction of any foreign state who is in, or is suspected of being in, or on the way to some part of the Protectorate;

* *The Extradition Act, 1870, and the Acts amending the same apply to the Colony.*

For the surrender of fugitive offenders from other parts of Her Majesty's dominions cf. Fugitive Offenders Act, 1881, and the West African (Fugitive Offenders) Order in Council, 1923.

“fugitive criminal of a foreign State” means a fugitive criminal accused or convicted of a crime in respect of which surrender may be granted, committed within the jurisdiction of that state;

“diplomatic representative of a foreign State” includes any person recognised by the Governor as a consul-general, consul, vice-consul, or as the officer administering the Government of any Possession, Dependency or Protectorate of that state;

“warrant” in the case of any foreign State, includes any judicial document authorising the arrest of a person accused or convicted of crime.

3. (1) Where an arrangement has been made between Her Majesty the Queen and the ruler of a foreign State under which the Protectorate is to surrender to that State or to its Protectorates any fugitive criminals, the Governor may by Order direct that this Ordinance shall apply in the case of that State during the continuance of the arrangement, and after such Order has been published in the *Gazette*, this Ordinance shall, subject to the terms of the arrangement, apply accordingly.

Ordinance to apply where arrangement for surrender of criminals made.

(2) No such notice shall remain in force for any longer period than the arrangement, and the Governor may by the same or any subsequent notice, limit the application of this Ordinance or render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient.

Duration of notice.

4. The following restrictions shall be observed with respect to the surrender of fugitive criminals—

Restrictions on surrender of fugitive criminals.

(a) a fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he proves to the satisfaction of a Judge of the Supreme Court or the Court before whom he is brought on *habeas corpus*, or to the Governor, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character;

(b) a fugitive criminal shall not be surrendered to a foreign State, unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored, or had an opportunity of returning to the Protectorate, be detained or tried in that foreign State for any offence committed prior to his surrender other than the crime proved by the facts on which the surrender is grounded;

(c) a fugitive criminal who has been accused of some offence within Her Majesty's jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the Protectorate, shall not be surrendered until after he has been discharged, whether by acquittal or expiration of his sentence or otherwise;

(d) a fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

Liability of fugitive criminal to surrender.

5. Where this Ordinance applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of the Protectorate shall be liable to be apprehended and surrendered in manner provided by this Ordinance whether the crime in respect of which the surrender is sought was committed before or after the coming into operation of this Ordinance, and whether there is or is not any concurrent jurisdiction in any Court of Her Majesty's dominions or of the Protectorate over that crime.

Order of Governor for issue of warrant in Protectorate if crime is not of a political character.
Form 1.

6. (1) A requisition for the surrender of a fugitive criminal of any foreign State, who is in, or suspected of being in, the Protectorate, shall be made to the Governor by some person recognised by the Governor as a diplomatic representative of that foreign State. The Governor may, by order under his hand, signify to a Magistrate that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal.

Governor may refuse order.

(2) If the Governor is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by Magistrate, etc.

Form 2.

7. (1) A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in, or suspected of being in, or on the way to, the Protectorate may be issued—

(a) by a Magistrate on the receipt of the said order of the Governor and on such evidence as would in his opinion justify the issue of the warrant, if the crime had been committed or the criminal convicted in the Protectorate; and

Form 3.

(b) by a Judge of the Supreme Court or a Magistrate in any part of the Protectorate, on such charge on oath and such evidence, or after such proceedings, as would in the opinion of the person issuing the warrant justify the issue of a warrant,

if the crime had been committed or the criminal convicted in that part of the Protectorate in which he exercises jurisdiction.

(2) Any person issuing a warrant under this section without an order from the Governor shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, or certified copies thereof, to the Governor, who may, if he think fit, order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged.

Report to
Governor.

(3) A fugitive criminal, when apprehended on a warrant issued without the order of the Governor, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought, and the prisoner shall accordingly be brought, before a Judge of the Supreme Court. A fugitive criminal apprehended on a warrant issued without the order of the Governor shall be discharged by the Judge of the Supreme Court, unless the Judge within such reasonable time, as with reference to the circumstances of the case he may fix, receives from the Governor an order signifying that a requisition has been made for the surrender of such criminal.

Procedure on
apprehension.
Form 4.

8. When a fugitive criminal is brought before a Judge of the Supreme Court, the Judge shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in the Protectorate.

Hearing of
case and
evidence of
political
character of
crime.

The Judge shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused, or alleged to have been convicted, is an offence of a political character or is not a crime in respect of which his surrender may be granted.

9. (1) In the case of a fugitive criminal accused of a crime in respect of which his surrender may be granted if the foreign warrant authorising the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Ordinance) would, according to the law of the Protectorate, justify the committal for trial of the prisoner, if the crime of which he is accused had been committed in the Protectorate, the Judge of the Supreme Court shall commit him to prison, but otherwise shall order him to be discharged.

Committal or
discharge of
prisoner.

(2) In the case of a fugitive criminal alleged to have been convicted of a crime in respect of which his surrender may