

(5) Embezzlement or criminal malversation of the public funds, committed by public officers, employees, or depositaries;

(6) Larceny or embezzlement of an amount not less than \$100 in value;

(7) Robbery;

(8) Burglary, defined to be the breaking and entering by nighttime into the house of another person with intent to commit a felony therein;

(9) Breaking and entering the house or building of another, whether in the day or nighttime, with the intent to commit a felony therein;

(10) Entering, or breaking and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance or other companies, with the intent to commit a felony therein;

(11) Perjury or the subornation of perjury;

(12) A felony under chapter 109A of this title;

(13) Arson;

(14) Piracy by the law of nations;

(15) Murder, assault with intent to kill, and manslaughter, committed on the high seas, on board a ship owned by or in control of citizens or residents of such foreign country or territory and not under the flag of the United States, or of some other government;

(16) Malicious destruction of or attempt to destroy railways, trams, vessels, bridges, dwellings, public edifices, or other buildings, when the act endangers human life.

This chapter, so far as applicable, shall govern proceedings authorized by this section. Such proceedings shall be had before a judge of the courts of the United States only, who shall hold such person on evidence establishing probable cause that he is guilty of the offense charged.

No return or surrender shall be made of any person charged with the commission of any offense of a political nature.

If so held, such person shall be returned and surrendered to the authorities in control of such foreign country or territory on the order of the Secretary of State of the United States, and such authorities shall secure to such a person a fair and impartial trial.

(June 25, 1948, ch. 645, 62 Stat. 823; May 24, 1949, ch. 139, § 49, 63 Stat. 96; Pub. L. 99-646, § 87(c)(6), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99-654, § 3(a)(6), Nov. 14, 1986, 100 Stat. 3663.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., 1940 ed., § 652 (R.S. § 5270; June 6, 1900, ch. 793, 31 Stat. 656).

Reference to territory of the United States and the District of Columbia was omitted as covered by definitive section 5 of this title.

Changes were made in phraseology and arrangement.

1949 ACT

This section [section 49] corrects typographical errors in section 3185 of title 18, U.S.C., by transferring to subdivision (3) the words, "indebtedness, bank notes, or other instruments of public", from subdivision (2) of such section where they had been erroneously included.

AMENDMENTS

1986—Par. (12). Pub. L. 99-646 and Pub. L. 99-654 amended par. (12) identically, substituting "A felony under chapter 109A of this title" for "Rape".

1949—Pars. (2), (3). Act May 24, 1949, transferred "indebtedness, bank notes, or other instruments of public" from par. (2) to par. (3).

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendments by Pub. L. 99-646 and Pub. L. 99-654 effective, respectively, 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, see section 87(e) of Pub. L. 99-646 and section 4 of Pub. L. 99-654, set out as an Effective Date note under section 2241 of this title.

§ 3186. Secretary of State to surrender fugitive

The Secretary of State may order the person committed under sections 3184 or 3185 of this title to be delivered to any authorized agent of such foreign government, to be tried for the offense of which charged.

Such agent may hold such person in custody, and take him to the territory of such foreign government, pursuant to such treaty.

A person so accused who escapes may be retaken in the same manner as any person accused of any offense.

(June 25, 1948, ch. 645, 62 Stat. 824.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 653 (R.S. § 5272).

Changes were made in phraseology and surplusage was deleted.

§ 3187. Provisional arrest and detention within extraterritorial jurisdiction

The provisional arrest and detention of a fugitive, under sections 3042 and 3183 of this title, in advance of the presentation of formal proofs, may be obtained by telegraph upon the request of the authority competent to request the surrender of such fugitive addressed to the authority competent to grant such surrender. Such request shall be accompanied by an express statement that a warrant for the fugitive's arrest has been issued within the jurisdiction of the authority making such request charging the fugitive with the commission of the crime for which his extradition is sought to be obtained.

No person shall be held in custody under telegraphic request by virtue of this section for more than ninety days.

(June 25, 1948, ch. 645, 62 Stat. 824.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 662d (Mar. 22, 1934, ch. 73, § 3, 48 Stat. 455).

Provision for expense to be borne by the demanding authority is incorporated in section 3195 of this title.

Changes were made in phraseology and arrangement.

§ 3188. Time of commitment pending extradition

Whenever any person who is committed for rendition to a foreign government to remain until delivered up in pursuance of a requisition, is not so delivered up and conveyed out of the United States within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the jail to which he was committed, by the readiest way, out of the United States, any judge of the United States, or of any State, upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such

application has been given to the Secretary of State, may order the person so committed to be discharged out of custody, unless sufficient cause is shown to such judge why such discharge ought not to be ordered.

(June 25, 1948, ch. 645, 62 Stat. 824.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 654 (R.S. § 5273).
Changes in phraseology only were made.

§ 3189. Place and character of hearing

Hearings in cases of extradition under treaty stipulation or convention shall be held on land, publicly, and in a room or office easily accessible to the public.

(June 25, 1948, ch. 645, 62 Stat. 824.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 657 (Aug. 3, 1882, ch. 378, § 1, 22 Stat. 215).

First word "All" was omitted as unnecessary.

§ 3190. Evidence on hearing

Depositions, warrants, or other papers or copies thereof offered in evidence upon the hearing of any extradition case shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that the same, so offered, are authenticated in the manner required.

(June 25, 1948, ch. 645, 62 Stat. 824.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 655 (R.S. § 5271; Aug. 3, 1882, ch. 378, § 5, 22 Stat. 216).

Unnecessary words were deleted.

§ 3191. Witnesses for indigent fugitives

On the hearing of any case under a claim of extradition by a foreign government, upon affidavit being filed by the person charged setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the judge or magistrate judge hearing the matter may order that such witnesses be subpoenaed; and the costs incurred by the process, and the fees of witnesses, shall be paid in the same manner as in the case of witnesses subpoenaed in behalf of the United States.

(June 25, 1948, ch. 645, 62 Stat. 825; Pub. L. 90-578, title III, § 301(a)(3), Oct. 17, 1968, 82 Stat. 1115; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 656 (Aug. 3, 1882, ch. 378, § 3, 22 Stat. 215).

Words "that similar" after "manner" were omitted as unnecessary.

AMENDMENTS

1968—Pub. L. 90-578 substituted "magistrate" for "commissioner".

CHANGE OF NAME

Words "magistrate judge" substituted for "magistrate" in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

§ 3192. Protection of accused

Whenever any person is delivered by any foreign government to an agent of the United States, for the purpose of being brought within the United States and tried for any offense of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safekeeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such offenses, and for a reasonable time thereafter, and may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused.

(June 25, 1948, ch. 645, 62 Stat. 825.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 659 (R.S. § 5275).

Words "crimes or" before "offenses" were omitted as unnecessary.

§ 3193. Receiving agent's authority over offenders

A duly appointed agent to receive, in behalf of the United States, the delivery, by a foreign government, of any person accused of crime committed within the United States, and to convey him to the place of his trial, shall have all the powers of a marshal of the United States, in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for the prisoner's safe-keeping.

(June 25, 1948, ch. 645, 62 Stat. 825.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., § 660 (R.S. § 5276).

Words "jurisdiction of the" were omitted in view of the definition of United States in section 5 of this title. Minor changes only were made in phraseology.

EX. ORD. NO. 11517. ISSUANCE AND SIGNATURE BY SECRETARY OF STATE OF WARRANTS APPOINTING AGENTS TO RETURN FUGITIVES FROM JUSTICE EXTRADITED TO UNITED STATES

Ex. Ord. No. 11517, Mar. 19, 1970, 35 F.R. 4937, provided: WHEREAS the President of the United States, under section 3192 of Title 18, United States Code, has been