

DESPATCHES FROM THE SECRETARY OF STATE.

No. 401.

CIRCULAR.

DOWNING STREET,

30th November, 1911.

SIR,—With reference to my Circular despatch of the 24th June last, I have the honour to transmit to you, for publication in the Colony under your government, copies of an Order of His Majesty in Council bringing into effect as from the 24th instant a Treaty for the mutual extradition of criminals between the United Kingdom and Siam, the ratifications of which were exchanged in London on the 1st day of August last.

I have, etc.,

L. HARCOURT.

The Officer Administering the Government of
HONGKONG.

ORDER IN COUNCIL APPLYING THE EXTRADITION ACTS TO SIAM.
NOVEMBER 10TH, 1911.

AT THE COURT AT BUCKINGHAM PALACE,
THE 10TH DAY OF NOVEMBER, 1911.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY.

PRIME MINISTER.

LORD PRIVY SEAL.

LORD PRESIDENT.

LORD CHAMBERLAIN.

WHEREAS by the Extradition Acts, 1870 to 1906, it was amongst other things enacted that, where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, His Majesty may, by Order in Council, direct that the said Acts shall apply in the case of such foreign State; and that His Majesty may, by the same or any subsequent Order, limit the operation of the Order, and restrict the same to fugitive criminals who are in or suspected of being in the part of His Majesty's dominions specified in the Order, and render the operation thereof subject to such conditions, exceptions, and qualifications as may be deemed expedient:

And whereas a Treaty was concluded at Bangkok on the 4th day of March, 1911, between His Majesty and His Majesty the King of Siam, for the Extradition of Criminals, which Treaty is in the terms following:—

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty the King of Siam, having judged it expedient, with a view to the better administration of justice and to the prevention of crime within their respective territories, that persons charged with or convicted of the crimes hereinafter enumerated, and being fugitives from justice, should under certain circumstances be reciprocally delivered up; the said High Contracting Parties have named as their plenipotentiaries to conclude a Treaty for this purpose, that is to say:—

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India: Arthur Peel, Esquire, His Envoy Extraordinary and Minister Plenipotentiary at the Court of Bangkok, etc.

And His Majesty the King of Siam: H.R.H. Prince Devawongse Varoprakar, His Minister for Foreign Affairs, etc.

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:—

ARTICLE 1.

The High Contracting Parties engage to deliver up to each other persons over whom they respectively exercise jurisdiction who, being accused or convicted of a crime or offence committed in the territory of the one Party, shall be found within the territory of the other Party, under the circumstances and conditions stated in the present Treaty.

ARTICLE 2.

The crimes or offences for which the extradition is to be granted are the following:—

1. Murder, or attempt, or conspiracy to murder.
2. Manslaughter.
3. Assault occasioning actual bodily harm. Malicious wounding or inflicting grievous bodily harm.
4. Counterfeiting or altering money, or uttering counterfeit or altered money.
5. Knowingly making any instrument, tool, or engine adapted or intended for counterfeiting coin.
6. Forgery, counterfeiting, or altering or uttering what is forged or counterfeited or altered.
7. Embezzlement or larceny.
8. Malicious injury to property, by explosive or otherwise, if the offence be indictable.
9. Obtaining money, goods, or valuable securities by false pretences.
10. Receiving money, valuable security, or other property, knowing the same to have been stolen, embezzled, or unlawfully obtained.
11. Crimes against bankruptcy law.
12. Fraud by a bailee, banker, agent, factor, trustee, or director, or member or public officer of any company made criminal by any law for the time being in force.
13. Perjury, or subornation of perjury.
14. Rape.
15. Carnal knowledge, or any attempt to have carnal knowledge of a girl under the age of puberty, according to the laws of the respective countries.
16. Indecent assault.
17. Procuring miscarriage, administering drugs, or using instruments with intent to procure the miscarriage of a woman.
18. Abduction.
19. Child stealing.
20. Abandoning children, exposing or unlawfully detaining them.
21. Kidnapping and false imprisonment.
22. Burglary or housebreaking.
23. Arson.
24. Robbery with violence.
25. Any malicious act done with intent to endanger the safety of any person in a railway train.
26. Threats by letter or otherwise, with intent to extort.
27. Piracy by law of nations.
28. Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
29. Assaults on board ship on the high seas, with intent to destroy life, or do grievous bodily harm.
30. Revolt, or conspiracy to revolt, by two or more persons on board a ship on the high seas against the authority of the master.
31. Dealing in slaves in such a manner as to constitute a criminal offence against the laws of both States.

Extradition is to be granted for participation in any of the aforesaid crimes, provided such participation be punishable by the laws of both contracting Parties.

Extradition may also be granted at the discretion of the State applied to in respect of any other crime for which according to the law of both of the contracting Parties for the time being in force, the grant can be made.

ARTICLE 3.

Either Government may, at its absolute discretion, refuse to deliver up its own subjects to the other Government.

ARTICLE 4.

The extradition shall not take place if the person claimed on the part of the Government of the United Kingdom, or the person claimed on the part of the Government of Siam, has already been tried and discharged or punished, or is still under trial in the territory of Siam or in the United Kingdom respectively for the crime for which his extradition is demanded.

If the person claimed on the part of the Government of the United Kingdom, or if the person claimed on the part of the Government of Siam, should be under examination for any crime in the territory of Siam or in the United Kingdom respectively, his extradition shall be deferred until the conclusion of the trial and the full execution of any punishment awarded to him.

ARTICLE 5.

A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is deemed by the Party on whom the demand is made to be one of a political character, or if he prove 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.

ARTICLE 6.

A person surrendered can in no case be detained or tried in the State to which the surrender has been made, for any other crime or on account of any other matters than those for which the extradition shall have taken place, until he has been restored or had an opportunity of returning to the State by which he has been surrendered.

This stipulation does not apply to crimes committed after the extradition.

ARTICLE 7.

The requisition for extradition shall be made through the diplomatic agents of the High Contracting Parties respectively.

The requisition for the extradition of the accused person must be accompanied by a warrant of arrest issued by the competent authority of the State requiring the extradition, and by such evidence as, according to the laws of the place where the accused is found, would justify his arrest if the crime had been committed there.

If the requisition for extradition relates to a person already convicted, it must be accompanied by a copy of the judgment passed on the convicted person by the competent court of the State that makes the requisition.

A sentence passed *in contumaciam* is not to be deemed a conviction, but a person so sentenced may be dealt with as an accused person.

ARTICLE 8.

If the requisition for extradition be in accordance with the foregoing stipulations, the competent authorities of the State applied to shall proceed to the arrest of the fugitive. The prisoner is then to be brought before a competent Magistrate, who is to examine him and to conduct the preliminary investigation of the case, just as if the apprehension had taken place for a crime committed in the same country.

ARTICLE 9.

When either of the contracting Parties considers the case urgent it may apply for the provisional arrest of the criminal and the safe keeping of any objects relating to the offence.

Such request will be granted, provided the existence of a sentence or warrant of arrest is proved, and the nature of the offence of which the fugitive is accused is clearly stated.

The warrant of arrest to which this Article refers should be issued by the competent authorities of the country applying for extradition. The accused shall on arrest be sent as speedily as possible before a competent Magistrate.

ARTICLE 10.

In the examinations which they have to make in accordance with the foregoing stipulations, the authorities of the State applied to shall admit as valid evidence the sworn depositions or the affirmations of witnesses taken in the other State, or copies thereof, and likewise the warrants and sentences issued therein, and certificates of or judicial documents stating the fact of a conviction, provided the same are authenticated as follows:—

1. A warrant must purport to be signed by a Judge, Magistrate, or officer of the other State.
2. Depositions or affirmations, or the copies thereof, must purport to be certified under the hand of a Judge, Magistrate, or officer of the other State, to be the original depositions or affirmations, or to be the true copies thereof, as the case may require.
3. A certificate of or judicial document stating the fact of a conviction must purport to be certified by a Judge, Magistrate, or officer of the other State.
4. In every case such warrant, deposition, affirmation, copy, certificate, or judicial document must be authenticated either by the oath of some witness, or by being sealed with the official seal of the Minister of Justice or some other Minister of the other State; but any other mode of authentication for the time being permitted by the law of the country where the examination is taken may be substituted for the foregoing.

ARTICLE 11.

The extradition shall not take place unless the evidence be found sufficient according to the laws of the State applied to, either to justify the committal of the prisoner for trial, in case the crime had been committed in the territory of the said State, or to prove that the prisoner is the identical person convicted by the courts of the State which makes the requisition, and that the crime of which he has been convicted is one in respect of which extradition could, at the time of such conviction, have been granted by the State applied to. The 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.

ARTICLE 12.

If the individual claimed by one of the two High Contracting Parties in pursuance of the present Treaty should be also claimed by one or several other Powers, his extradition shall be granted to that State whose demand is earliest in date.

ARTICLE 13.

If sufficient evidence for the extradition be not produced within two months from the date of the apprehension of the fugitive, or within such further time as the State applied to, or the proper tribunal thereof shall direct, the fugitive shall be set at liberty.

ARTICLE 14.

All articles seized which were in the possession of the person to be surrendered, at the time of his apprehension, shall, if the competent authority of the State applied to for the extradition has ordered the delivery thereof, be given up when the extradition takes place, and the said delivery shall extend not merely to the stolen articles, but to everything that may serve as a proof of the crime.

ARTICLE 15.

The High Contracting Parties renounce any claim for the reimbursement of the expenses incurred by them in the arrest and maintenance of the person to be surrendered and his conveyance till placed on board the ship; they reciprocally agree to bear such expenses themselves.

ARTICLE 16.

The stipulations of the present Treaty shall be applicable to the Colonies and foreign possessions of His Britannic Majesty, so far as the laws for the time being in force in such Colonies and foreign possessions respectively will allow.

The requisition for the surrender of a fugitive criminal who has taken refuge in any such Colony or foreign possession may be made to the Governor or chief authority of such Colony or possession by any person authorized to act in such Colony or possession as a consular officer of Siam.

Such requisitions may be disposed of, subject always, as nearly as may be, and so far as the laws of such Colonies or foreign possessions will allow, to the provisions of this Treaty, by the said Governors or chief authorities, who, however, shall be at liberty either to grant the surrender or to refer the matter to His Britannic Majesty's Government.

His Britannic Majesty shall, however, be at liberty to make special arrangements in the British Colonies and foreign possessions for the surrender of criminals from Siam who may take refuge within such Colonies and foreign possessions, on the basis, as nearly as may be, and so far as the laws of such Colonies or foreign possessions will allow, of the provisions of the present Treaty.

Requisitions for the surrender of a fugitive criminal emanating from any Colony or foreign possession of His Britannic Majesty shall be governed by the rules laid down in the preceding articles of the present Treaty.

ARTICLE 17.

The present Treaty shall come into force ten days after its publication in conformity with the forms prescribed by the laws of the High Contracting Parties. It may be terminated by either of the High Contracting Parties at any time on giving to the other six months' notice of its intention to do so.

The Treaty shall be ratified, and the ratifications shall be exchanged at London, as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seal of their arms.

Done in duplicate at Bangkok, the fourth day of March, 1911, in the 129th Year of "Ratanakosindr."

(L.S.) ARTHUR PEEL.

(L.S.) DEVAWONGSE VAROPRAKAR.

And whereas the ratifications of the above Treaty were exchanged at London on the 1st day of August, 1911;

NOW, THEREFORE, His Majesty, by and with the advice of His Privy Council, and in virtue of the authority committed to Him by the said recited Acts, doth order, and it is hereby ordered, that from and after the 24th day of November, 1911, the said Acts shall apply in the case of Siam under and in accordance with the said Treaty of the 4th March, 1911.

Provided always that the operation of the said Acts shall be and remain suspended within the Dominion of Canada so long as an Act of the Parliament of Canada, being Part I of Chapter 155 of "The Revised Statutes of Canada, 1906," and entitled "An Act respecting the Extradition of Fugitive Criminals," shall continue in force there, and no longer.

ALMERIC FITZROY.