

CEAR

FOURTH SUPPLEMENT
TO THE
FEDERATED MALAY STATES
GOVERNMENT GAZETTE

OF FRIDAY, THE 4TH OF JUNE, 1920.

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The following Notifications are, by direction of the Chief Secretary to Government, published for general information.

A. S. JELF,
Acting Under Secretary, F.M.S.

“THE EXTRADITION ENACTMENT, 1914.”

ORDER BY THE CHIEF SECRETARY TO GOVERNMENT, APPLYING
THE ENACTMENT TO SPAIN.

No. 2429.—WHEREAS by section 4 of “The Extradition Enactment, 1914,” it is enacted that where an arrangement has been made between His Britannic Majesty and the Ruler of a foreign country for the mutual surrender of persons accused or convicted of crime and the operation of such arrangement has been, with the consent of the Rulers of the Federated Malay States, extended so as to apply, so far as local circumstances permit, to the mutual surrender of persons accused or convicted of crime between such foreign country and the Federated Malay States, the Chief Secretary may, by Order published in the *Gazette*, direct that the said Enactment shall apply in the case of that country during the continuance of the arrangement and of the application thereof to the Federated Malay States :

AND WHEREAS a Treaty was concluded on the 4th day of June, 1878, between Great Britain and Spain for the extradition of criminals, which Treaty is in the terms following :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Spain, having judged it expedient, with a view to the better administration of justice and the prevention of crime, that persons charged with, or convicted of, the crimes hereinafter enumerated, and being fugitives from justice, should, under certain circumstances, be reciprocally delivered up, have resolved to conclude the present Treaty, and have appointed as their Plenipotentiaries, namely :

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honourable Robert Arthur Talbot Gascoyne Cecil, Marquis and Earl of Salisbury, Viscount Cranborne, Dorset, and Baron Cecil of Essendine, a Peer of the United Kingdom, a member of Her Majesty's Most Honourable Privy Council, Her Principal Secretary of State for Foreign Affairs :

And His Majesty the King of Spain, Don Manuel Rances y Villanueva, Marquis of Casa-Laiglesia, a Senator of the Kingdom, Knight Grand Cross of the Royal and Distinguished Order of Charles III, and Knight of the First Class of the Civil Order of Beneficence of Spain; Knight Grand Cross of the Papal Order of Gregory the Great; Knight of the First Class of the Royal Order of the Red Eagle of Prussia; Knight Grand Cross of the Royal Orders of the Crown of Italy, of Frederick of Wurtemberg, and of Albert the Valorous of Saxony; of the Grand Ducal Orders of Philip the Magnanimous of Hesse-Darmstadt, of the White Hawk of Saxe-Weimar, of the Crown of Vandalia of Mecklenburgh-Schwerin, and of the Ducal Order of Adolphus of Nassau; Knight Grand Cross of the Lion and the Sun of Persia, etc., His Envoy Extraordinary and Minister Plenipotentiary to Her Majesty the Queen of the United Kingdom of Great Britain and Ireland;

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

ARTICLE I.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland engages to deliver up, under the circumstances and on the conditions stipulated in the present treaty, all persons, and His Majesty the King of Spain engages to deliver up, under the like circumstances and conditions, all persons, excepting his own subjects, who, having been charged with, or convicted by the Tribunals of one of the two High Contracting Parties, of the crimes or offences enumerated in Article II, committed in the territory of the one party, and who shall be found within the territory of the other.

ARTICLE II.

The extradition shall be reciprocally granted for the following crimes or offences :

1. Murder (including assassination, parricide, infanticide, poisoning, or attempt to murder).
2. Manslaughter.
3. Administering drugs or using instruments with intent to procure the miscarriage of women.
4. Rape.
5. Aggravated or indecent assault. Carnal knowledge of a girl under the age of 10 years; carnal knowledge of a girl above the age of 10 years and under the age of 12 years; indecent assault upon any female, or any attempt to have carnal knowledge of a girl under 12 years of age.
6. Kidnapping and false imprisonment, child-stealing, abandoning, exposing, or unlawfully detaining children.
7. Abduction of minors.
8. Bigamy.
9. Wounding, or inflicting grievous bodily harm.
10. Assaulting a magistrate, or peace or public officer.
11. Threats by letter or otherwise with intent to extort money or other things of value.
12. Perjury, or subornation of perjury.
13. Arson.
14. Burglary or house-breaking, robbery with violence, larceny or embezzlement.
15. Fraud by a bailee, banker, agent, factor, trustee, director, member, or public officer of any company, made criminal by any law for the time being in force.
16. Obtaining money, valuable security, or goods by false pretences; receiving any money, valuable security, or other property, knowing the same to have been unlawfully obtained.

17. (a) Counterfeiting or altering money, or bringing into circulation counterfeited or altered money;
- (b) Forgery, or counterfeiting or altering or uttering what is forged, counterfeited or altered;
- (c) Knowingly making without lawful authority any instrument, tool, or engine adapted and intended for the counterfeiting of coin of the realm.
18. Crimes against Bankruptcy Law.
19. Any malicious act done with intent to endanger persons in a railway train.
20. Malicious injury to property, if such offence be indictable.
21. Crimes committed at sea:
 - (a) Piracy by the law of nations.
 - (b) Sinking or destroying a vessel at sea, or attempting or conspiring to do so.
 - (c) Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.
 - (d) Assault on board a ship on the high seas with intent to destroy life, or to do grievous bodily harm.
22. Dealing in slaves in such manner as to constitute an offence against the laws of both countries.

The extradition is also to take place for participation in any of the aforesaid crimes as an accessory before or after the fact, provided such participation be punishable by the laws of both Contracting Parties.

ARTICLE III.

The present Treaty shall apply to crimes and offences committed prior to the signature of the Treaty; but a person surrendered shall not be tried for any crime or offence committed in the other country before the extradition, other than the crime for which his surrender has been granted.

ARTICLE IV.

No person shall be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the competent authority of the State in which he is 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 V.

In the States of His Majesty the King of Spain, excepting the provinces or possessions beyond sea the proceedings for demanding and obtaining the extradition shall be as follows:

The Diplomatic Representative of Great Britain shall send to the Minister for Foreign Affairs (Ministro de Estado) with the demand for extradition, an authenticated and legalized copy of the sentence or of the warrant of arrest against the person accused, clearly showing the crime or offence for which proceedings are taken against the fugitive. This judicial document shall be accompanied, if possible, by a description of the person claimed, and any other information or particulars that may serve to identify him.

These documents shall be communicated by the Minister for Foreign Affairs to the Minister of Grace and Justice, by whose Department, after examining the documents and finding that there is reason for the extradition, a Royal Order will be issued granting it, and directing the arrest of the person claimed and his delivery to the British authorities.

In virtue of the said Royal Order the Minister of the Interior (Ministro de la Gobernacion) will adopt the fitting measures for the arrest of the fugitive, and when this has taken place, the person claimed shall be placed at the disposal of the Diplomatic Representative who has demanded his extradition, and he shall be taken to the part of the frontier or to the seaport where the Agent appointed for the purpose by Her Britannic Majesty's Government is ready to take charge of him.

In case the documents furnished by the said Government for the identification of the person claimed, or the information obtained by the Spanish authorities for the same purpose, should be considered insufficient, immediate notice thereof shall be given to the Diplomatic Representative of Great Britain, and the person under arrest shall be detained until the British Government shall have furnished fresh evidence to prove his identity or to clear up any other difficulty relative to the examination and decision of the affair.

ARTICLE VI.

In the dominions of Her Britannic Majesty, other than the Colonies or Foreign Possessions of Her Majesty, the manner of proceeding, in order to demand and obtain extradition, shall be as follows:

(A) In the case of a person accused.—The requisition for the surrender shall be made to Her Britannic Majesty's Principal Secretary of State for Foreign Affairs by the Diplomatic Representative of His Majesty the King of Spain. The said demand shall be accompanied by a warrant of arrest or other equivalent judicial document, issued by a Judge or Magistrate duly authorised to take cognizance of the acts charged against the accused in Spain, and duly authenticated depositions or statements taken on oath before such Judge or Magistrate, clearly setting forth the said acts, and containing a description of the person claimed, and any particulars which may serve to identify him.

The said Principal Secretary of State shall transmit such documents to Her Britannic Majesty's Principal Secretary of State for the Home Department, who shall then, by order under his hand and seal, signify to some Police Magistrate in London that such requisition has been made, and require him, if there be due cause, to issue his warrant for the apprehension of the fugitive. On the receipt of such order from the Secretary of State, and on the production of such evidence as would, in the opinion of the Magistrate, justify the issue of the warrant if the crime had been committed in the United Kingdom, he shall issue his warrant accordingly.

When the person claimed shall have been apprehended, he shall be brought before the Magistrate who issued the warrant, or some other Police Magistrate in London. If the evidence to be then produced shall be such as to justify, according to the law of England, the

committal for trial of the prisoner, if the crime of which he is accused had been committed in the United Kingdom, the Police Magistrate shall commit him to prison to await the warrant of the Secretary of State for his surrender; sending immediately to the Secretary of State a certificate of the committal and a report upon the case.

After the expiration of a period from the committal of the prisoner, which shall never be less than fifteen days, the Secretary of State shall, by order under his hand and seal, order the fugitive criminal to be surrendered to such person as may be duly authorised to receive him on the part of the Spanish Government.

(B) In the case of a person convicted.—The course of proceeding shall be the same as above indicated, except that the warrant to be transmitted by the Diplomatic Representative of Spain in support of his requisition shall clearly set forth the crime or offence of which the person claimed has been convicted, and state the place and date of his conviction.

The evidence to be produced before the Police Magistrate shall be such as would, according to the law of England, prove that the prisoner was convicted of the crime charged.

(C) Persons convicted by judgment in default or *arrêt de contumace*, shall be, in the matter of extradition, considered as persons accused, and, as such, be surrendered.

(D) After the Police Magistrate shall have committed the accused or convicted person to prison to await the order of a Secretary of State for his surrender, such person shall have the right to apply for a writ of *habeas corpus*; if he should so apply, his surrender must be deferred until after the decision of the Court upon the return to the writ, and even then can only take place if the decision is adverse to the applicant. In the latter case the Court may at once order his delivery to the person authorised to receive him, without the order of a Secretary of State for his surrender, or commit him to prison to await such order.

ARTICLE VII.

Warrants, depositions, or statements on oath, issued or taken in the dominions of either of the two High Contracting Parties, and copies thereof, and certificates of or judicial documents stating the facts of conviction, shall be received in evidence in proceedings in the dominions of the other, if purporting to be signed or certified by a Judge, Magistrate, or officer of the country where they were issued or taken, provided such warrants, depositions, statements, copies, certificates, and judicial documents are authenticated by the oath of some witness, or by being sealed with the official seal of the Minister of Justice, or some other Minister of State.

ARTICLE VIII.

A fugitive criminal may be apprehended under a warrant issued by any Police Magistrate, Justice of the Peace, or other competent authority in either country, on such information or complaint, and such evidence, or after such proceedings as would, in the opinion of the authority issuing the warrant, justify the issue of a warrant if the crime had been committed or the person convicted in that part of the dominions of the two Contracting Parties in which the Magistrate,

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Justice of the Peace, or other competent authority exercises jurisdiction: provided, however, that, in the United Kingdom, the accused shall, in such case, be sent as speedily as possible before a Police Magistrate in London. He shall, in accordance with this Article, be discharged, as well in Spain as in the United Kingdom, if, within the term of thirty days, a requisition for extradition shall not have been made by the Diplomatic Agent of his country, in accordance with the stipulations of this Treaty.

The same rule shall apply to the cases of persons accused or convicted of any of the crimes or offences specified in this Treaty, and committed on the high seas on board any vessel of either country which may come into a port of the other.

ARTICLE IX.

If the fugitive criminal who has been committed to prison be not surrendered and conveyed away within two months after such committal, or within two months after the adverse decision of the Court upon the return to a writ of *habeas corpus* in the United Kingdom, he shall be discharged from custody, unless sufficient cause be shown to the contrary.

ARTICLE X.

In the Provinces beyond sea, Colonies and other possessions beyond sea of the two High Contracting Parties, the manner of proceeding shall be as follows:

The requisition for extradition of the fugitive criminal who has taken refuge in an oversea Province, Colony, or Possession of either of the two Contracting Parties, shall be made to the Governor or chief authority of such Province, Colony, or Possession by the chief Consular Officer of the other State in such Province, Colony, or Possession; or, if the fugitive has escaped from an oversea Province, Colony, or Possession of the State on whose behalf the extradition is demanded, by the Governor or chief authority of such Province, Colony or Possession.

In these cases the provisions of this Treaty shall be observed as far as possible by the respective Governors or chief authorities, who, however, shall be at liberty either to grant the extradition or to refer the decision of the matter to the Governments of their respective countries.

ARTICLE XI.

In cases where it may be necessary, the Spanish Government shall be represented at the English Courts by the Law Officers of the Crown, and the English Government in the Spanish Court by the Public Prosecutor (Ministerio Fiscal).

The respective Governments will give assistance to the Diplomatic Representatives who claim their intervention for the custody and security of the persons subject to extradition.

ARTICLE XII.

The claim for extradition shall not be complied with if the individual claimed has been already tried for the same offence in the country whence the extradition is demanded, or if, since the commission of the acts charged, the accusation or the conviction, exemption from prosecution or punishment has been acquired by lapse of time, according to the laws of that country.

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ARTICLE XIII.

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, on account of other crimes or offences committed upon their respective territories, his extradition shall be granted to that State whose demand is earliest in date; unless any other arrangement should exist between the different Governments to determine the preference, either on account of the gravity of the crime or offence, or for any other reason.

ARTICLE XIV.

If the individual claimed should be under prosecution, or have been condemned for a crime or offence committed in the country where he may have taken refuge, his surrender may be deferred until he shall have been set at liberty in due course at law.

In case he should be proceeded against or detained in such country, on account of obligations contracted towards private individuals, the extradition shall nevertheless take place.

ARTICLE XV.

Every article found in the possession of the individual claimed at the time of his arrest, shall, if the competent authority so decide, be seized, in order to be delivered up with his person at the time when the extradition takes place.

Such delivery shall not be limited to the property or articles obtained by stealing or by fraudulent bankruptcy, but shall extend to every thing that may serve as proof of the crime or offence, and shall take place even when the extradition, after having been granted, cannot be carried out by reason of the escape or death of the individual claimed.

The rights of third parties with regard to the said property or articles are nevertheless reserved.

ARTICLE XVI.

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 as far as the frontier; they reciprocally agree to bear such expenses themselves.

ARTICLE XVII.

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

It shall come into operation ten days after its publication, in conformity with the laws of the respective countries, and each of the Contracting Parties may at any time terminate the Treaty on giving to the other six months' notice of its intention to do so.

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

Done at London, the fourth day of June, in the year of our Lord one thousand eight hundred and seventy-eight.

(L.S.) SALISBURY.

(L.S.) MARQUES DE CASA-LAIGLESIA.

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AND WHEREAS the ratifications of the said Treaty were exchanged at London on the twenty-first instant :

AND WHEREAS a further Treaty was concluded at Madrid on the 20th day of June, 1919, between His Britannic Majesty and His Majesty the King of Spain for the extension of the operation of the Treaty of the 4th day of June, 1878, to British-protected States in the Malay Peninsula 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 Spain, considering it advisable to regulate by a Treaty the extradition of fugitive criminals between certain British-protected States in the Malay Peninsula and the territories of His Majesty the King of Spain, have appointed as their Plenipotentiaries for the purpose :

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Right Honourable Sir Arthur Hardinge, G.C.M.G., His Ambassador Extraordinary and Plenipotentiary at the Court of Spain ; and His Majesty the King of Spain, Don Manuel González Hontoria y Fernández Ladreda, Knight of the Royal and Distinguished Order of Charles III, Knight of the British Victorian Order, His Minister of State ;

Who, being duly authorised thereto, have agreed to and concluded the following articles :

ARTICLE 1.

The provisions of the Extradition Treaty between Great Britain and Spain signed on June the 4th, 1878, shall apply to extradition between the territories of His Majesty the King of Spain and the British-protected States in the Malay Peninsula mentioned in the list hereto annexed, equally as if these States were foreign possessions of His Britannic Majesty.

If, after the signature of this Treaty, it should be considered advisable to apply its provisions to British-protected States in the Malay Peninsula other than those mentioned in the list annexed to this Treaty, then, after agreement arrived at between the respective Governments, its provisions shall apply also to these other States.

ARTICLE 2.

For the purposes of the application of the Treaty of June 4th, 1878, the natives of the said British-protected States shall be regarded as British subjects.

ARTICLE 3.

Requisitions for extradition under the present Treaty shall, subject to the exception mentioned below, be in accordance with the provisions of article 10 of the Treaty of June 4th, 1878, as if the said British-protected States were foreign possessions of His Britannic Majesty.

The period of provisional arrest mentioned in the said Treaty may be extended at the discretion of the Government applied to or the proper Tribunal.

ARTICLE. 4.

The present Treaty shall be ratified, and the ratifications shall be exchanged in Madrid as soon as possible.

The Treaty shall come into operation three months after the date of the exchange of ratifications.

It shall remain in force as long as the Extradition Treaty between Great Britain and Spain of June 4th, 1878, remains in force and shall lapse with the termination of that Treaty.

In witness whereof the respective Plenipotentiaries sign and seal this Treaty.

Done in duplicate at Madrid the 20th day of June one thousand nine hundred and nineteen.

(L.S.) ARTHUR H. HARDINGE.

(L.S.) MANUEL GONZÁLEZ HONTORIA.

ANNEX.

List of the Federated Malay States referred to in Article 1:

Perak
Selangor
Negri Sembilan
Pahang

ARTHUR H. HARDINGE.

MANUEL GONZÁLEZ HONTORIA.

AND WHEREAS the ratifications of the above Treaty were exchanged at Madrid on the 22nd day of November, 1919:

AND WHEREAS the Rulers of the Federated Malay States have given their consent:

NOW, THEREFORE, the Chief Secretary to Government in exercise of the powers vested in him by section 4 of "The Extradition Enactment, 1914," hereby orders that from and after the 20th day of June, 1920, the said Enactment shall apply in the case of Spain during the continuance of the Treaty of the 4th day of June, 1878, and of the application thereof to the Federated Malay States.

"THE QUARANTINE AND PREVENTION OF DISEASE ENACTMENT, 1903."

No. 2430.—Rinderpest having ceased to exist at Port Swettenham, in the district of Klang, Selangor, the Resident of Perak hereby rescinds the *Gazette* Notification No. 2199 of the 28th May, 1920.